

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.11592 of 2020

1.Sekar, M/A 47 years,
S/o.Chinnasamy,
No.170, Pallapatti,
Nathapatti Post, Dharmapuri District.

2.Kasirajan, M/A 37 years,
S/o.Periyavan,
No.1/52, Mel Street,
Baommasamuthiram, Nathathalli Post,
Dharmapuri District. ... Petitioners/(Accused A1 & A2)

Vs.

The State represented by,
The Inspector of Police,
Fairlands Police Station,
Salem District.

(Crime No. 149 of 2020) ... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on bail in the event of their arrest in Crime No.149 of 2020 on the file of the Inspector of Police, Fairlands Police Station, Salem District.

For Petitioners : Mr.S.Sasikumar

For Respondent : Mr.K.Prabakar

Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 294(b), 450, 354(A), 324, 354, 511 of IPC, in Crime No. 149 of 2020, on the file of the respondent police, seek anticipatory bail.

2 The case of the prosecution as per the defacto complainant viz, Sampath, is that on 21.03.2020 at 10.45 a.m., the accused had trespassed into his house and demanded the money which was given to him as loan and when the defacto complainant had told that he had already returned the amount along with interest, they have abused the wife of the defacto complainant and assaulted his son and thereby, they have sustained injuries and they have also threatened that they will also rape his wife.

3 The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would submit that the said Sampath who is also a native from their village and borrowed huge amounts from the petitioners/ defacto complainant and later settled in Salem and thereby taking advantage of his position in the society, he had refused to return the money and when the petitioner have gone to take back the money, he had abused them and assaulted them and where as given false complaint against them. Hence, he prays to grant anticipatory bail to the petitioners.

4 The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioners have lent the money to the defacto complainant and they have gone to the house of the defacto complainant and harassed him and his family members. He would submit that the investigation is pending. He would further submit that the injured have been discharged from the hospital and that there is no previous case pending against the petitioners. However, he opposed to grant anticipatory bail to the petitioner.

5 Taking into consideration the facts and submissions of the learned counsel, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

6 Accordingly, the petitioners are directed to be released on bail in the event of arrest or on their appearance, within a period of fifteen days after lifting of lockdown or the commencement of Court's normal functioning whichever is earlier, before the learned Judicial Magistrate No.V, Salem, on condition that each petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall report before the respondent police every day at 10.30 a.m., for a period of two weeks and thereafter every Monday at 10.30 a.m., until further orders.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

7 With the above directions, this Criminal Original Petition is ordered.

-sd/-

21/08/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.V, SALEM

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
FAIRLANDS POLICE STATION,
SALEM DISTRICT.

CC to S.SASIKUMAR Advocate on payment of necessary charges

CRL OP.11592/2020

Date :21/08/2020

RD 09/09/2020