

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.Nos.11877 & 11878 of 2020

Siva, M/26,
/o.Udayasuriyan,
No.2/120, West Street,
Arinatham Village,
Ulundurpet Taluk
Villupuram District.

... Petitioner/Accused No.1
in both petitions

Vs.

The State represented by,
The Inspector of Police,
Thirunavalur Police Station,
Villupuram District.
(Crime No. 1952 of 2020)

... Respondent/Complainant
in Crl.O.P.No.11877/2020

The State represented by,
The Inspector of Police,
Thirunavalur Police Station,
Villupuram District.
(Crime No. 1951 of 2020)

... Respondent/Complainant
in Crl.O.P.No.11878/2020

Common Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on bail in the event of arrest in Crime Nos.1952 & 1951 of 2020 on the file of the Inspector of Police, Thirunavalur Police Station, Villupuram District.

For Petitioner

in both petitions : Mr.S.Nedunchezhiyan

For Respondent

in both petitions : Mr.K.Prabakar

Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 294(b), 324, 332 and 506(ii) of IPC, in Crime Nos. 1952 & 1952 of 2020, on the file of the respondent police, seeks anticipatory bail.

2 In CrI.O.P.No.11878/2020: The case of the prosecution as per the defacto complainant Savitha is that on 26.07.2020 at about 06.30 p.m., while she was coming back to her home after grazing cow, the petitioner had driven his car in a rash and negligent manner and dashed against the cow and caused injuries to it. When the defacto complainant had questioned the same, the petitioner had abused her in filthy language and attacked her with wooden log on her head. Hence, the complainant in Crime No.1951 of 2020.

3 In CrI.O.P.No.11877/2020: The case of the prosecution as per the defacto complainant Alex, the Sub Inspector of Police, is that on 26.07.2020, while he was on patrol with his police authority, had seen that the petitioner had abused a lady and attempting to assault her with wooden log and when the defacto complainant was questioned the petitioner, the petitioner had attacked him with hands. Hence, the complaint in Crime No.1952 of 2020.

4 The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and that due to a previous enmity Savitha has given a complaint as if the petitioner has dashed against her cow and thereafter assaulted her. He would submit that even in the FIR the defacto complainant Savitha had stated that there was previous enmity between the petitioner's family and her family. He would submit that while a quarrel was going, the Sub-Inspector of Police, who had come to the place of occurrence, without enquiry what was happened, had started assaulting the petitioner and the petitioner was taken aback and since, he has questioned the Sub-Inspector of Police, two cases have been foisted against him. He would submit that the Sub-Inspector of Police went to the extent impleading the parents of the petitioner also in this case and they were arrested and later they have been enlarged on bail. He would submit that the petitioner is prepared to abide by any stringent condition and without prejudice to his contentions. He would further submit that the petitioner is prepared to deposit some amount to the Animal Welfare Board of India and that both the cases are foisted due to personal enmity. Hence, he prays to grant anticipatory bail to the petitioner.

5 The learned Additional Public Prosecutor appearing for the petitioner would submit that the petitioner had driven his car in a rash and negligent manner and dashed against the cow belonging to one Savitha and when she had questioned it, the petitioner had assaulted on her head with wooden log and at the same time, the Sub-Inspector of Police was on his usual rounds and he had questioned the

petitioner, the petitioner had intimidated him and also attempted to assault the police party. He would further submit that there is no previous case pending against the petitioner. Hence, he opposed to grant anticipatory bail to the petitioner.

6 Taking into consideration the voluntary submission made by the petitioner offering to donate/pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioner may be directed to donate/pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to Animal Welfare Board of India, without prejudice to his rights and contentions before the trial Court.

7 Merely, because the petitioner has deposited the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

8 Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

(a) The petitioner is directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) either through RTGS/NEFT or in cash in favour of **Animal Welfare Board of India, state Bank Of India, Sikri Branch, Tehsil Ballabhugarh Dist. Faridabad, Haryana. IFSC CODE:SBIN0018183 FCRA NO:10029835025 General Donations. A/C No. 62461874155** within fifteen (15) days from the date of receipt of a copy of this order and shall produce the receipt before the respondent police. Thereafter, the petitioner is directed to be released on bail in the event of his arrest or his appearance and on production of proof of payment of the above amount and on further condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for the like sum to the satisfaction of the police officer who intends to arrest, failing which the petition for anticipatory bail shall stand dismissed automatically and on further condition that the petitioner shall also give a letter of undertaking before the respondent/police that the said amount has been paid in respect of particular organization.

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

[c] the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter every Monday at 10.30 a.m., until further order.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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].

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

9 With the above directions, these Criminal Original Petitions are ordered.

sd/-
20/08/2020

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.II,ULUNDERPET

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
THIRUNAVAILUR POLICE STATION,
VILLUPURAM DISTRICT.

4 THE ANIMAL WELFARE BOARD OF
INDIA, STATE BANK OF INDIA,
SIKRI BRANCH, TEHSIL BALLABHGARH DIST,
FARIDABAD, HARYANA,
IFSC CODE:SBIN0018183 FCRA NO:10029835025
GENERAL DONATIONS. A/C NO. 62461874155

CC to M/S.S.NEDUNCHEZHIAN Advocate on payment of necessary charges

CRL OP.11877 & 11878/2020

Date :20/08/2020

RD 10/09/2020