

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.08.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.12100 of 2020

1. JAYAPPAUL @ JAYAPALAN
2. DASS @ PALAYADASS
3. MARI @ MATHIYAZHAGAN
4. BASKAR
5. PALANI
6. PETER @ VIJAY
7. SATHYA @ MUGUNDHAN

... Petitioners

Vs.

STATE REP BY
THE INSPECTOR OF POLICE,
E-5, SHOLAVARAM POLICE STATION,
THIRUVALLUR DISTRICT
CRIME NO. 2662 OF 2020

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of their arrest in Crime No.2662 of 2020 on the file of respondent police.

For Petitioner : Mr. D.Gopi Krishnan

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 offence punishable under **Sections 147, 294(b), 448, 427, 506(ii) of IPC r/w Section 4 of TNPWH Act in Crime No. 2662 of 2020** on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant Deivarani is that on 16.06.2020, the petitioners had trespassed into her house and questioned the whereabouts of her son who had one side love affair with the 1st petitioner's sister's daughter and subsequently, they damaged the house hold articles and attacked her by legs and further threatened her with dire consequences. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners and the defacto complainant are residents of same village and due to previous enmity regarding love affair of the first petitioner's sister's daughter, a false case has been foisted against the petitioners. He would further submit that there is a case in counter against in Crime No.2661 of 2020 has been registered on the complaint given by the 1st petitioner and in fact the complaint given by the first petitioner is the first complaint. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor submitted that due to enmity, the petitioners had trespassed into the house of the defacto complainant and damaged the house hold articles and attacked her by legs and also threatened her with dire consequences. He would further submit that there is no previous case against the petitioners and the injured has been discharged from the hospital. However, he opposed to grant anticipatory bail to the petitioners.

5. Taking into consideration the facts and circumstances and the submissions of the learned counsels and the fact that the injured has been discharged from the hospital and there is no previous case against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. Accordingly, the petitioners are ordered to be released on bail in the event of their arrest by the respondent police or on their appearance, **within a period of fifteen days from the date of lifting of lockdown or the commencement of Court's normal functioning whichever is earlier**, before the **Judicial Magistrate No.I, Ponneri, Thiruvallur District**, on condition that the petitioners 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 daily 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
13/08/2020

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.I,
PONNERI, THIRUVALLUR DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
E-5, SHOLAVARAM POLICE STATION,
THIRUVALLUR DISTRICT.

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

CRL OP.12100/2020

Date :13/08/2020

MK:28/08/2020