

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.12217 of 2020

1.Anbuseliyan @ Anbuselvam
2.Thavamani

... Petitioners/Accused Nos.1 & 2

Vs.

The State represented by,
The Inspector of Police,
Thiruvarur Taluk Police Station,
Thiruvarur District.
Crime No. 1248 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. 1248 of 2020 on the file of the Inspector of Police, Thiruvarur Taluk Police Station, Thiruvarur District.

For Petitioners : Mr.R.Murugabharathi

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), 448, 323, 427, 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, in Crime No.1248 of 2020, on the file of the respondent police, seek anticipatory bail.

2 The case of the prosecution is that due to a drainage dispute, the petitioners have assaulted the defacto complainant and damaged the mixie, T.V and other house hold articles and thereby defacto complainant has sustained injuries. Hence, the complaint.

3 The learned counsel appearing for the petitioner would submit that the petitioners are innocent persons and due to previous enmity, a false case has been given against them by the defacto complainant. He would further submit that the first petitioner was arrested and he has been enlarged on bail on 05.08.2020 by the lower Court and as far as the second petitioner is concerned, she is the mother of the first petitioner. Hence, he prays to grant anticipatory bail to the second petitioner.

4 The learned Additional Public prosecutor would submit that due to dispute between the neighbours with regard to drainage problem, the petitioners have abused and assaulted the defacto complainant and caused damage to the wind shields, TV and other articles. He would submit that the injured has been discharged from the hospital. He would further submit that the first petitioner was arrested on 02.08.2020 and enlarged on bail on 05.08.2020 by the lower Court and as far as the second petitioner is concerned, there is no previous case pending against her. However, he opposed to grant anticipatory bail to the second petitioner.

5 Taking into consideration the facts and submissions of the learned Counsel, this court is not inclined to grant anticipatory bail to the petitioner and hence, this petition is dismissed in respect of the first petitioner. However, this Court is inclined to grant anticipatory bail in respect of the second petitioner subject to the following conditions;

6 Accordingly, the second petitioner is directed to be released on bail in the event of her arrest or on her appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.I, Nagapattinam, on condition that the second 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 second petitioner 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 second petitioner shall report before the respondent police every day at 10.30 a.m., for a period of one week and thereafter as and when required for interrogation.

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

[d] the second petitioner 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 second petitioner in accordance with law as if the conditions have been imposed and the second 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].

[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/-
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, NAGAPATTINAM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
THIRUVARUR TALUK POLICE STATION,
THIRUVARUR DISTRICT.

CC to M/S.R.MURUGA BHARATHI Advocate on payment of necessary charges

CRL OP.12217/2020

Date :13/08/2020