

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.Nos.12206 and 12462 of 2020

1. Athi @ Adhiswaran

... Petitioner in
CrI.O.P.No.12206/2020

1. Shyam @ Samson

2. Sathish

3. Bharani@ Bharani Kumar

4. Selvam @ Selvakumar

... Petitioners in
CrI.O.P.No.12462/2020

Vs.

The State represented by,
The Inspector of Police,
S-6, Sankar Nagar Police Station,
Chennai.(Crime No. 766/2020)

... Respondent in
both CrI.O.P's

Common Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on anticipatory bail in the event of their arrest in Crime No. 766 of 2020 on the file of the respondent.

For Petitioner in

CrI.O.P.No. 12206/2020 : Mr.A. Arunkumar

For petitioners in

CrI.O.P.No.12462/2020 : Mr.P.K.Ganesh

For Respondent in

: Mr.M. Mohamed Riyaz

both CrI.O.P's

Additional Public Prosecutor

C O M M O N 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 147, 148 and 269 of IPC r/w u/s 27(2) of Arms Act 1959 and Section 3 of The Epidemic Diseases Act , in Crime No. 766 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant one Ragu who is a president of Saraswathipuram residents welfare Association is that on 14.07.2020 the petitioners in defiance of the lockdown rules unlawfully assembled and celebrated the birthday of one of their friend and had cut the birthday cake with machete. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and without knowing the consequences they have arranged to celebrate the birthday in a public place. He would further submit that the petitioner in CrI.O.P.No.12206 of 2020 is concerned he is studying Diploma in Mechanical Engineering in a polytechnic College. As far as the petitioners in CrI.O.P.No. 12462 of 2020 is concerned, the first petitioner is a mechanic, the second petitioner is a polytechnic student, the third petitioner is a college student and the 4th petitioner is a B.E. Student. He would also submit that the petitioners are ready to abide with any stringent conditions to be imposed by this Court and they assure that they will not indulge in any such activities in future. Hence, he prays to grant anticipatory bail to the petitioners.

4. The learned Government Advocate would submit that the accused persons in defiance of the lockdown rules unlawfully assembled and celebrated the birthday of one of their friend by cutting a cake with a sword and thereby caused terror and disturbances to the residents of that area. However, there is no previous case pending against the petitioners.

5. Taking into consideration the facts and submissions of the learned Counsel and the fact that there is no previous case pending against the petitioners and taking into consideration the age of the petitioner, 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 their arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No-I, Tambaram, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties **out of which one surety should be either of the parent**, 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 10:30a.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, these Criminal Original Petition are ordered.

-sd/-
24/08/2020

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, TAMBARAM

2 THE CHIEF JUDICIAL MAGISTRATE
EGMORE, CHENNAI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
S-6, SANKAR NAGAR POLICE STATION,
CHENNAI

+1 CC to M/S. A.ARUN KUMAR Advocate on payment of
necessary charges SR.NO. 6035

CRL OP.12206 & 12462 of 2020

Date :24/08/2020