

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No. 12367 of 2020

1.Indra ... Petitioners
2.Ambika
3.Vinoth @ Vinothkumar

Vs.

The State represented by, ... Respondent
The Sub-Inspector of Police,
Thirukazhukundram Police Station,
Kancheepuram District.
(Crime No.876 of 2020)

Prayer: Criminal Original Petitions filed under Section 438 Cr.P.C. to enlarge the petitioners on bail in the event of their arrest in connection with Cr. No.876 of 2020 on the file of the respondent Police.

For Petitioners: Mr. R.Sasikumar

For Respondent : Mr. M.Mohamed Riyaz

Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 294 (b), 323, 324, 506(ii) IPC in Cr. No.876 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant namely Magesh is that due to previous enmity there was a wordy quarrel between the petitioners and the *de facto* complainant. At that time, the petitioners have assaulted the defacto complainant with wooden log and iron rod due to which, he sustained injury. Hence, the complaint.

3. Learned counsel for the petitioners would submit that the petitioners are innocent and due to previous enmity, a false complaint has been foisted against them. Hence, he prays grant of anticipatory bail to the petitioners.

4. Learned Additional Public Prosecutor submitted that due to previous enmity, there was a wordy quarrel between the petitioners and the *de facto* complainant due to which, the petitioners assaulted the *de facto* complainant with wooden log and iron road resulting in him sustaining injuries. He would submit that the injured has been discharged from the hospital. He further submitted that there are five previous cases against the first petitioner herein out of which three cases relate to prohibition offence and two cases relate to sand theft and that there is no previous case against the second and third petitioners. However, he opposed for grant of anticipatory bail to the petitioners.

5. Considering the above facts and circumstances of the case and since there are five previous cases as against the first petitioner, this Court is not inclined to grant anticipatory bail to the first petitioner. **Accordingly, this Criminal Original Petition is dismissed insofar as the first petitioner is concerned.**

6. However, considering the fact that the injured has been discharged from the hospital and there are no previous cases as against the second and third petitioners, **this Court is inclined to grant anticipatory bail to the second and third petitioners subject to the following conditions.**

[a] Accordingly, **the second and third petitioners** are ordered to be released on bail in the event of arrest 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 learned Judicial Magistrate, Thirukazhukundram, 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:

[b] 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.

[c] the **petitioners 2 and 3** shall report before the respondent police daily at 10.30 a.m. until further orders.

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

[e] the petitioners 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/s in accordance with law as if the conditions have been imposed and the petitioner/s 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.

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

-sd/-

26/08/2020

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,
THIRUKAZHUKUNDRAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
THIRUKAZHUKUNDRAM POLICE STATION,
KANCHEEPURAM DISTRICT.

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

CRL OP.12367/2020

Date :26/08/2020

TA-21/09/2020

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