

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.12475 of 2020

NasarBasha

... Petitioner/1st Accused

Vs.

The State represented by,
The Inspector of Police,
D-3, Podhanur Police Station,
Coimbatore.
Crime No. 1193 of 2020.

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to grant anticipatory bail to the petitioner in the event of arrest by the respondent police in Crime No. 1193 of 2020, pending investigation on the file of the respondent.

For Petitioner : Mr.S.Sumathy

For Respondent : Mr.M.Mohamed Riyaz
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 147, 148, 341, 294(b), 307 and 506(ii) of IPC, in Crime No. 1193 of 2020, on the file of the respondent police, seeks anticipatory bail.

2 The case of the prosecution is that defacto complainant has assaulted petitioner's father one day prior to this occurrence and there was no complaint in this regard. Due to this incident, the petitioner/1st Accused has assaulted the defacto complainant with wooden log and thereby he has sustained head injury. Hence, the complaint.

3 The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that on the previous day of occurrence, the defacto complainant has assaulted the father of the petitioner, for which, a complaint has been given against the defacto complainant by the petitioner side and as a counter blast, the present complaint has been given. Hence, he prays to grant anticipatory bail to the petitioner.

4 The learned Additional Public Prosecutor appearing for the respondent would submit that due to previous enmity the petitioner has assaulted the defacto complainant with wooden log on his head. He would submit that the injured has been discharged from the hospital. He further submitted that there are two previous pending against the petitioner one registered during the 2013 and another at Kerala. Therefore, he opposed for grant of anticipatory bail to the petitioner.

5 Taking into consideration the facts and submissions of the learned Counsel and the fact that the victim has been discharged from the hospital, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

6 Accordingly, the petitioner is directed to be released on bail in the event of his arrest or on his appearance, within a period of fifteen days after lifting of lockdown or the commencement of Court's normal functioning whichever is earlier, before the learned Judicial Magistrate No.VII, Coimbatore, on 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 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 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 petitioner shall report before the respondent police every day 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 petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the 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 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].

[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/-
25/08/2020

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.VII, COIMBATORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
D-3, PODHANUR POLICE STATION,
COIMBATORE DISTRICT.

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

CRL OP.12475/2020

cs 11/09/2020

Date : 25/08/2020

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