

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.OP.No.12588 of 2020

1. Sivashankari
2. Rajasekar

... Petitioners

Vs.

The State rep by
The Inspector of Police,
Vishnukanchi police station,
Kancheepuram District,
Crime No.178 of 2020

.... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioners on bail in the event of their
arrest in Crime No.178 of 2020 on the file of the respondent police.

For Petitioners : Mr.G.P.Sivakumar

For Respondent : Mr.K.Prabakar,
Additional Public Prosecutor

ORDER

(This 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 147, 148, 294(b), 323, 448, 506(ii) of IPC r/w 3(1) of TNPPDL Act, in Crime No.178 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant Gnanapragasam is that he is a tenant running a bakery in the premises belonging to one Sivashankari and that there was a dispute between him and the owner and the case was filed in O.S.No.54 of 2019, on the file of the Kancheepuram Munsif Court. Whiles, on 02.06.2019, some person under the leadership of one rowdy Kamal came to the bakery and damaged all the items in the bakery and when the same was questioned by the defacto complainant, he abused the defacto complainant in filthy language and said that on the advice of the owner of the shop Sivashankari and her husband they had done the offence. Hence the complaint.

3. The learned Counsel for the petitioners submitted that the petitioners are innocent and that they have been falsely implicated in this case due to the civil dispute between them. He would further submit that the defacto complainant is the tenant in the shop and without the knowledge of the petitioners he has sublet the property to third parties and in order to escape from the same, he has given a false complaint and prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the owners of the shop has engaged rowdy and caused damages to the items in the bakery. He would further submit that there is no previous case pending against the petitioners. However, he opposed for grant of bail to the petitioners.

5. Taking into consideration the facts and submissions of the learned Counsel and the fact that there are no previous cases pending against the petitioners, 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 arrest or on their appearance, within a period of fifteen days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Judicial Magistrate No.1, Kancheepuram on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two surety, 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 first petitioner shall report before the respondent daily at 10.30 a.m. for a period of one week and thereafter as and when required.

[c] the second petitioner shall report before the respondent daily at 10.30 a.m. for a period of two weeks and thereafter every Monday 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 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].

[g] 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/-
19/08/2020

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, KANCHEEPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VISHNUKANCHI POLICE STATION,
KANCHEEPURAM DISTRICT.

CC to M/S.G.P.SIVAKUMAR Advocate on payment of necessary charges

CRL OP.12588/2020

Date :19/08/2020

TA-14/09/2020