

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 13539 of 2020

Muhamed Waqar Ashaq

... Petitioner/3rd Accused

Vs.

The State represented by,
The Inspector of Police,
D-1 Triplicane Police Station,
Wallajah Road,
Chennai - 600 002.
(Crime No. 681 of 2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 681 of 2020, pending investigation on the file of the respondent police.

For Petitioner : Mr.M.Mohammed Rafi

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 11.07.2020 for the offences punishable under Sections 341, 294(b), 326 & 506(2) of IPC in Crime No. 681 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the defacto complainant is that on 10.07.2020 one Ashi Mohammed informed him is that his son Sadiq Hussain and his friends were fighting and when he had gone there, he had seen that one Mohammed Ali and the petitioner holding the hands of the defacto complainant's son and one Mugamad Nathimullah had taken the knife and stabbed on his stomach and one Muhamad Ali Hussain had attacked with knife on his back and they have also abused the defacto complainant. Thereby, the victim has sustained injured. Hence, the complainant.

3 The learned counsel appearing for the petitioner would submit that the petitioner and the victim are relatives and the incident had happened during a domestic quarrel between the relatives. He would submit that even as per the FIR the allegation against the petitioner is that he had caught hold of the hands and the first and second accused have stated to have attacked the victim with knife. He would submit that the petitioner was arrested on 11.07.2020 and that the petitioner is in custody for more than 50

days. He would further submit that the age of the petitioner is only 20 years and that taking into consideration the age of the petitioner, bail may be granted. Hence, he prays to grant bail to the petitioner.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner and the victim are relatives during the quarrel with regard to sharing of cough syrup, which was used for intoxication, the petitioner had got hold of the victim and A1 and A2 have stabbed with knife and thereby, the victim has sustained injuries and he was admitted in the hospital and his spleen has been removed and he has been discharged from the hospital after few days. Hence, he vehemently opposed to grant bail to the petitioner.

5 Heard both sides and perused the FIR.

6 Taking into consideration of the facts and submissions made by the learned counsel, considering the fact that the petitioner has not stabbed the victim and that the victim has been discharged from the hospital, considering the age of the petitioner and also considering the fact that the petitioner is in jail from 11.07.2020, this Court is inclined to grant bail to the petitioner subject to the following conditions:-

(a) Accordingly, the Petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the Petitioner has been confined and thereafter on his release;

(b) the petitioner shall within 15 days from the date of lifting of the lock down or the commencement of the Court's normal functioning or which ever is earlier, execute two sureties, each for a sum of Rs.10,000/- (Rupees Ten Thousand only), before the learned Metropolitan Magistrate No.II, Egmore, Chennai-8, within 15 days from the date of lifting of the lock down or the commencement of the Court's normal functioning or which ever is earlier, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d) the petitioner shall stay at Vellore and report before the Sathuvachari police station everyday at 10.30 a.m. and 05.30 p.m., until further orders.

(e) the petitioner shall not commit any offences of similar nature;

(f) the petitioner shall not abscond either during investigation or trial;

(g) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) on breach of any of the aforesaid conditions, the learned Judicial 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];

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

02/09/2020

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 II METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI-8.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
D-1 TRIPLICANE POLICE STATION,
WALLAJAH ROAD, CHENNAI - 600 002.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI

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

CRL OP.13539/2020

Date :02/09/2020

RVR 15/09/2020