

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.13665 of 2020

Muthan @ Muthusamy

... Petitioner

Vs.

State represented by,
The Inspector of Police,
Dhali Police Station,
Tiruppur District.
(Cr.No.699 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., to grant anticipatory bail to the petitioner in the event of his arrest or on his appearance before any Court in connection with the case in Crime No.699 of 2020 on the file of the respondent police.

For Petitioner : Mr.R.John Sathyan

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 342, 323, 324 and 506(ii) of IPC, in Crime No.699 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per Murugesan is that on 02.07.2020, while he had called the first accused Muthusamy over phone in respect of fixing an Advocate in that case. During that time there was an argument between them and the first accused had called him to his place and the defacto complainant around 3.00 p.m., went to the place of the first accused and at that time, there was a quarrel during which time, the first accused has taken a gun in his hand and attempted to assault the defacto

complainant and he received blunt injury on the head and hands and the other accused have also assaulted him with hands and logs. The defacto complainant had gone to the place of the first accused along with four of his friends and thereafter, the friends of A1 assaulted him and since the defacto complainant and his friends were inebriated condition he had given the complainant on the next day. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and it is the defacto complainant, who had come to the farm with his friends and they were in inebriated condition and they created a mess in the farm of the petitioner. Even as per the complaint, the defacto complainant had only sustained blunt injury which had happened during the alleged fight. He would further submit that the defacto complainant and the petitioner are co-accused in a case registered for the offence under Section 302 and he would submit that due to inter motive, a false complaint has been given against him. He would further submit that similarly placed accused namely Guna @ Gunaseelan, who is A4 in this case has been granted anticipatory bail in CrI.O.P.No.10342 of 2020 by this Court. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent opposed the grant of bail, stating that the petitioner has got three previous cases against him and that due to quarrel between the defacto complainant and the petitioner with regard to fixing of an Advocate there was a fight between them during which time the petitioner and his friends attacked the defacto complainant in hand with centring rod and also attacked him with hands. He would further submit that the defacto complainant had gone to the farm of the petitioner where the incident had occurred. At this juncture, the learned counsel for the petitioner would submit that the previous cases against this petitioner are in respect of the years 2013 and 2015 and after 2015, the petitioner does not have any case. As far as the case under Section 302 is concerned, the petitioner and defacto complainant are not accused, and the petitioner is prepared to abide by any stringent condition and is prepared to stay as far as possible.

5. Taking into consideration the facts and circumstances of the case, 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 from the date on which the order copy made ready, before the learned Judicial Magistrate No.II, Udumalpet, 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 stay at Cuddalore, within one week after lifting of lockdown and report before the Inspector of Police, O.T. Police Station daily at 10.30 a.m., and 5.30 p.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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

04/09/2020

सत्यमेव जयते

This order, on being produced, be punctually observed and carried into execution by all concerned

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TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE NO.II,
UDUMALPET.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
DHALI POLICE STATION,
TIRUPPUR DISTRICT.

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

CRL OP.13665/2020

Date :04/09/2020

MK:17/09/2020



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