

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.Nos.13850 & 13859 of 2020

1.Syed Rafi Basha @ Gold Rafi

2.Sameel Ahmed @ Sameer

3.Shaik Hijjath @ Shijath

4.Nasar Basha @ Nani Nasar

5.Syed Basha @ Basha

6.Abdullah

.... Petitioners/Accused 1 to 6
in CrI.O.P.NO.13850/2020

1.Syed Rafi Basha @ Gold Rafi

2.Sameel Ahmed @ Sameer

3.Nasar Basha @ Nani Nasar

4.Mohammad Jabir @ Jabeer

5.Abdul Khadar @ Abdul

6.Mohammed Ali @ Mechanic Ali

7.Mohammed Sadiq @ Pakoda Sadiq

8.Khadar Sheriff @ Bullet Khadar

.... Petitioners/Accused 1 to 8
in CrI.O.P.No.13859/2020

Vs.

सत्यमेव जयते

The State represented by,

The Inspector of Police,

H-1, Washermenpet Police Station,

Chennai City.

.... Respondent/Complainant

in CrI.O.P.No.13859/2020

Common Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on bail in the event of their arrest, pending investigation in Crime Nos.4852 & 4853 of 2020, on the file of the respondent police Station.

For Petitioner in both petitions : Mr.A.M.Rahamath Ali

For Respondent in both petitions : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

For Intervenor in both petitions : Mr. Velmurugan

COMMON ORDER

(The case has been heard through video conference)

The petitioners in Crime No.13850/2020, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 147, 148, 448, 324 and 506(ii) of IPC, in Crime No.4852 of 2020, on the file of the respondent police, seek anticipatory bail.

2.The petitioners in Crime No.13859/2020, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 147, 148, 294(b), 323, 324 and 506(ii) of IPC, in Crime No.4853 of 2020, on the file of the respondent police, seek anticipatory bail.

3.The case of the prosecution as per the defacto complainant viz., Aathif is that on 18.08.2020 at about 08.30 p.m., his son and his friends had gone for exercise in a nearby play ground. At that time, the accused have picked up a quarrel and assaulted them, due to which, defacto complainant's son and his friends have sustained injuries. Thereafter, the accused had come to the house of the defacto complainant and threatened him.

4.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would further submit that it is a case and case in counter. He would further submit that on the complaint lodged by the petitioners, a case in Crime No.4854 of 2020 has been registered against the defacto complainant and that the accused in CrI.O.P.No.13311 of 2020 were granted anticipatory bail by this Court vide order dated 31.08.2020 and he would further submit that a fight between two groups of youngsters, has been exaggerated.

5.The learned Government Advocate (CrI.Side) would vehemently oppose stating that the incident has happened during the quarrel between two groups of persons belonging to the same community. He would further submit that on the complaint given by the petitioners, a counter case has been registered in Crime No.4854 of 2020 against the defacto complainant, in which, the accused have also granted anticipatory bail by this Court in CrI.O.P.No.13311 of 2020 vide order dated 31.08.2020. He would further submit that as far as the first petitioner/Gold Rafi is concerned there are 41 previous cases and as far as A6/Mechanic

Ali is concerned there are 10 previous cases and as far as A8/Bullet, Kadher is concerned there are 32 previous cases

6.The learned counsel appearing for the petitioners in reply would submit that the first petitioner is a member of the SDPI party and all the cases registered against him are in respect of political agitations participated by him on behalf of his party. He would further submit that two other cases registered against him i.e., one is in Crime No. 997/2012 and another one is in Crime No.44/2014 are in respect of agitations in respect of IPL matches along with the other party members. He would further submit that other than these cases registered on account of political agitations there is no bad antecedents against the first petitioner and that he is prepared to abide by any stringent condition imposed by this Court.

7.At this juncture, the learned counsel appearing for the petitioners as well as the learned counsel for the intervener would submit that the incident had happened during a quarrel and fight between two groups of youngsters residing in the same locality and in the interest of the persons living in the locality, there is a likelihood of amicable settlement between the parties.

8.Taking into consideration the facts and submissions of the learned Counsel and the fact that the victim has been discharged from the hospital and also the fact that it is a case in counter, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

9.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 from the date on which the order copy made ready, before the learned XV Metropolitan Magistrate, George Town, Chennai, on condition that each 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 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/Syed Rafi Basha @ Gold Rafi, shall stay at Madurai and report before the Tallakulam Police Station, every day at 10.30 a.m., until further orders and the other petitioners shall report before the respondent police every day at 05.30 p.m., for a period of two weeks and thereafter as and when required for interrogation.

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

[d] the petitioners 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 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].

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

10 With the above directions, these Criminal Original Petitions are ordered.

-sd/-

11/09/2020

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 THE METROPOLITAN MAGISTRATE NO.XV,
GEORGE TOWN, CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
H-1 WASHERMENPET POLICE STATION,
CHENNAI CITY.

4 THE OFFICER INCHARGE,
TALLAUKULAM POLICE STATION,
MADURAI.

+1CC to M/S.A.M.RAHAMATH ALI Advocate on payment of necessary charges SR NO.6221, 6222

CRL.OP.NOS.13850 & 13859 OF 2020

Date :11/09/2020