

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Cr1.O.P.No.13890 of 2020

1.Mohamed Rajik @ Abdul Rajik
2.Jahir Hussain
3.Ahamadullah @ Ahamuthullah
4.Mustafa @ Mohammed Musthafa

... Petitioners

vs.

The State Represented by,
The Inspector of Police,
Koothanallur Police Station,
Tiruvarur.

Crime No.1431 of 2020.

...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioners on bail in the event of their arrest in Connection with the Crime No.1431 of 2020 pending on the file of the respondent police.

For Petitioners : Mr.L.AbdulBasith

For Respondent : Mr.M.Mohamed Riyaz,
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 alleged offences punishable under Sections 341, 294(b), 324, 307 of IPC, in Crime No.1431 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant one KalyanKumar is that he received information that, due to previous enmity, the petitioners who belong to political party, had assaulted the defacto complainant's son with iron rod, due to which, his son sustained grievous injuries and admitted in the hospital.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He would further submit that a false complaint has been foisted against them, due to political animosity. He would submit that even as per the complaint, the defacto complainant is not an eye-witness to the occurrence and he has given only on information. He would further submit that A1 has been arrested and as far as the other petitioners are concerned,

there is no previous case against them. The 1st petitioner has been arrested after filing this petition and hence, he is not pressing for the 1st petitioner. As far as 2nd petitioner is concerned, he has one previous case registered in crime No.1430 of 2020 by the very same police station, where the petitioners are stated to have indulged in agitation in respect of cleaning a river. In the earlier FIR in Crime No.1430 of 2020 and 1431 of 2020. He would further submit that it is not possible for the petitioner to be present in two different places at the same time, which is about 2 km, to involve in the offence. Further he would submit that previous cases have been registered in respect of political agitation. Therefore, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that that the petitioners who were belonging to the political party, due to previous enmity, assaulted the son of the defacto complainant with iron rod and thereby, he sustained grievous injuries on his head and eye-brow. He would also submit that the victim has been discharged from the hospital and A1 was arrested and remanded to judicial custody. However, he opposed for grant of anticipatory bail to the petitioners.

5. Taking into consideration the facts and submissions of the learned Counsel that the 1st petitioner has been arrested and he is not pressing for the 1st petitioner, this petition is dismissed in so far as A1/ 1st petitioner is concerned. As far as A2 to A4 are concerned, this Court is inclined to grant anticipatory bail subject to the following conditions;

6. Accordingly, the petitioners/A2 to A4 are directed to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Judicial Magistrate Court No.II, Mannargudi on condition that the petitioners 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/A2-A4 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 petitioners/A2-A4 shall report before the respondent Police daily at 10.30 a.m., until further orders.

[c] the petitioners/A2-A4 shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners/A2-A4 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.

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

-sd/-

18/09/2020

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 JUDICIAL MAGISTRATE,
NO.II, MANNARGUDI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
KOOTHANALLUR POLICE STATION,
TIRUVARUR.

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

WEB COPY

CRL OP.13890/2020

Date :18/09/2020

RVR 30/09/2020