

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Crl.O.P.Nos.14260 & 15346 of 2020

1. Nagaraj

2. Arun

... Petitioners in Crl.O.P.No.14260/2020

Ramasamy

... Petitioner in Crl.O.P.No.15346/2020

Vs.

The State Represented by,
The Sub Inspector of Police,
Thandrapattu Police Station,
Thandrapattu, Thiruvannamalai.
(Cr.No.472 of 2019)

... Respondent in both Crl.O.Ps

Common Prayer: Criminal Original Petitions 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.472 of 2019 pending on the file of the respondent police.

For Petitioners
in Crl.O.P.No.14260/2020 : Mr.G.Veerapathiran

For Petitioner
in Crl.O.P.No.15346/2020 : Mr.V.Prakash Babu

For Respondent
in both Crl.O.Ps : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

COMMON 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 147, 148, 341, 294 (b), 324, 506 (ii) and 307 of IPC, subsequently altered into 302 of IPC, in Crime No.472 of 2019, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the de-facto complainant viz., Selvakumar is that there was a land dispute between his family and one Elumalai family. On 19.12.2019 at about 3.30 p.m., when the de-facto complainant and his brothers came to his house, near Thenmudiyanur-Agarampallipattu Cell Phone Tower, due to previous enmity, 8 named accused and two persons who would be identified came with weapons and waylaid the de-facto complainant and his nephew and threatened them. Suddenly, A3 attacked them with knife on his head and A2 assaulted one Vijay on his fingers and at that time one Aandavan intervened to stop the fight and A1 and A4 assaulted the said Aandavan, as a result of which, he sustained injuries. Thereafter, all the accused ran away from the scene of occurrence. The injured were taken to the hospital based on the complaint given by the de-facto complainant, the case was initially registered under Sections 147, 147, 148, 341, 294 (b), 324, 506 (ii) and 307 of IPC and later the said Aandavan succumbed to injuries after two days in the hospital, and thereafter, it was altered into 302 of IPC. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that due to family rivalry, the entire family members of the accused were impleaded unnecessarily. The petitioners are relatives of the de-facto complainant and they are known to each other for several years and strangely their names do not find a place in the FIR. However, only based on the confession statement recorded from the arrested accused namely one Devaraj/A1, the petitioners have been implicated in this case and overtacts have been assigned to the petitioners only on the alleged confession. Even, according to the alleged confession statement recorded from A1, the petitioners are alleged to have assaulted the persons who have accompanied the de-facto complainant and not the deceased Amaranathan. He would further submit that the respondent police is well aware that the petitioners are not present in the scene of occurrence and that is the reason they have not yet been arrested even though the alleged occurrence took place on 19.12.2019. He would further submit that the victim succumbed after two days of occurrence due to improper treatment. In so far as the other alleged victims stated to have been injured, they have been discharged from the hospital. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned counsel for the petitioners in CrI.O.P.No.14260 of 2020 would submit that according to the confession of A1, the first petitioner is stated to have assaulted the other victims and Arun / second petitioner had abused the other victims with filthy language and threatened them with machete. Later, as one of the victim succumbed injuries after two days, the case was altered into 302 of IPC. The petitioners have not attacked the deceased.

5. The learned Additional Public Prosecutor would submit that the petitioners are the relatives of main accused. Even though, their names does not find a place in the FIR, A1 had confessed that the petitioners assaulted the other persons, who are the relatives of one Parthiban and the deceased namely one Aandavan. He would further submit that the investigation is pending. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

6. Heard and perused the materials available on record.

7. Taking into consideration the facts and submissions of the learned Counsel, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before the Judicial Magistrate-I, Tiruvannamalai, on condition that each of 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 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] petitioners shall report before the respondent police daily at 10.30 a.m., until further orders.

[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 absconds, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petitions are ordered.

-sd/-
29/10/2020

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, TIRUVANNAMALAI.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB-INSPECTOR OF POLICE,
THANDRAMPATTU POLICE STATION,
THANDRAMPATTU,
TIRUVANNAMALAI DISTRICT.

+1 CC to M/S.G.VEEERAPATHIRAN Advocate on payment of necessary charges SR.No.7108

सत्यमेव जयते

CRL OPs.14260 & 15346/2020

Date :29/10/2020

cs 05/11/2020

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