

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.14057 of 2020

Usain Khan @ Feroz

... Petitioner

Vs.

The State of Tamilnadu
Rep. by its Inspector of Police
H-8, Thiruvottiyur Police Station
Chennai 600 019
(Crime No.5507 of 2020)

..Respondent

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code, praying to enlarge the petitioner on bail in the event of his arrest in Crime No.5507 of 2020 on the file of the respondent police.

For Petitioner : Mr.D.Saravanan

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 offences punishable under Sections 294(b), 323, 325 and 506(ii) of IPC in Crime No.5507 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant one Syed Abrar is that due to previous enmity, the petitioner along with other two accused waylaid and assaulted him indiscriminately with hands, thereby, the victim sustained injuries and also lost his one tooth.

3. The learned counsel for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution. He would further submit that even as per F.I.R. only A1 has stated to have caused injury and the petitioner was found along with him. He would further submit that the other accused who were arrested by the respondent police have also been enlarged on bail.

4.The learned Additional Public Prosecutor would submit that due to previous enmity the petitioner along with other accused have assaulted the defacto complainant with hands. He would further submit that the defacto complainant has also lost his one tooth due to the assault. He would further submit that the injured has been discharged and there is no previous case against the petitioner. However, he opposed for grant of anticipatory bail to the petitioner.

5. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsels and also considering the fact that the victim has been discharged from the hospital and there is no previous case against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions:

a) Accordingly, the petitioner is ordered to be released on bail, in the event of his arrest or on his appearance, within a period of fifteen days from the date of commencement of the Court's normal functioning, before the learned Judicial Magistrate, Thiruvottiyur, Thiruvallur District, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, 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:

[b] 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.

[c] the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] 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].

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

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

-sd/-

10/09/2020

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

TRUE COPY

TO

1 THE JUDICIAL MAGISTRATE,
THIRUVOTTIYUR, THIRUVALLUR DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
H-8, THIRUVOTTIYUR POLICE STATION,
THIRUVOTTIYUR, CHENNAI-19.

CC to M/S.D.SARAVANAN Advocate on payment of necessary charges

CRL OP.14057/2020

Date :10/09/2020

RVR 25/09/2020