

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

CrI.O.P.No.14049 of 2020

Bhavani

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
T-11, Thirunindravur Police Station,
Chennai.
(Cr.No.640 of 2020)

...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioner on bail in the event of her arrest in Connection with the Crime No.640 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.G.Sivakumar

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

(This 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 294(b), 324, 307 and 506 (ii) of IPC, in Crime No.640 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant K.Pushparaj is that he is a fruit vendor, doing business in a pushcart. He had lent an amount of Rs.2 lakhs to one Sakthivel and the said Sakthivel had repaid an amount of Rs.1,19,000/- and an amount of Rs.81,000/- was yet to be paid. While so, he passed away suddenly, the defacto complainant demanded the balance amount from the petitioner herein who is the wife of the deceased Sakthivel. On 02.09.2020, the defacto complainant had called the petitioner and asked for his balance money and enraged by the said act, the petitioner had threatened him saying that he should not ask money from her once again, if he does so, she will do away with him. After some time one David, Kakanji Nagar, called the defacto complainant over phone and asked him to come near Elite Tea Shop and when he had gone to the place, the David along with one Ajith had threatened him saying that he should not demand money from Bavani the petitioner herein and saying so they cut him with knife on the head and the said Ajith had assaulted him with Iron rod due to which, he sustained injuries. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent lady and that her name has been falsely written in this case. He would submit that the petitioner is working as a teacher and her husband one Sakthivel is stated to have borrowed money from the defacto complainant and very recently i.e. 24.05.2020, the husband of the petitioner passed away. The defacto complainant in order to recover the lent money from the petitioner had conveniently and cunningly linked the incident between him and the said David to recover money from her. He would further submit that the petitioner has no relationship whatsoever with the said David or Ajith. The petitioner has very recently lost her husband. Therefore, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would vehemently oppose stating that the petitioner's husband had borrowed an amount of Rs.2 lakhs from the defacto complainant and had repaid an amount of Rs.1,19,000/- and an amount of Rs.81,0000/- remains to be paid. When the defacto complainant had asked for return of money, the petitioner had threatened him and also engaged her friend one David who is a notorious element and that on 02.09.2020 the said David had called the defacto complainant to come near one Elite Tea Shop and when he had gone there, the said David along with one Ajith had assaulted him with knife and Iron rod due to which, he sustained injuries. He further submitted that the injured has been discharged from the hospital. However, he opposed for the grant of anticipatory bail to the petitioner.

5. Taking into consideration the facts and submissions of the learned Counsels, 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 arrest or on her appearance, within a period of fifteen (15) days from the date on which a copy of this order is made ready, before the learned Judicial Magistrate - II, Thiruvallur, on condition that the petitioner shall execute a 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 report before the respondent Police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required.

[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/-

23/09/2020

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, THIRUVALLUR

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
T-11, THIRUNINDRAVUR POLICE STATION,
CHENNAI.

+1 CC to M/S.G.SIVAKUMAR Advocate on payment of necessary charges Sr.6446

WEB COPY

CRL OP.14049/2020

Date :23/09/2020

RVR 15/10/2020