

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.14449 of 2020

Murugesan

... Petitioner

Vs.

State Represented by
The Inspector of Police,
Kondalampatti Police Station,
Salem District.
Cr. No.766 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., praying to enlarge the petitioner on bail in the event of his arrest in Crime No.766 of 2020 on the file of the Respondent police.

For Petitioner : Mr.A.S.Prabu

For Respondent : Mr.T.Shanmugarajeswaran
Govt. Advocate (Crl. side)

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 alleged offences punishable under Sections 147, 427, 451, 379(NP) of IPC in Crime No.766 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. It is the case of the prosecution that the petitioner and the defacto complainant are relatives. There was a property dispute between the petitioner and the defacto complainant. Due to which, the petitioner trespassed into the property of the defacto complainant and damaged the articles in his house worth about Rs.48,000/-. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and due to a property dispute a false case has been foisted against the petitioner and he has been falsely implicated in this case. He would submit that earlier on the complaint given by the petitioner a case in Crime No.734 of 2020 has been registered against the defacto complainant and only as a counter this false case has been given. Hence, he prayed for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl. side) would submit that due to previous enmity regarding property, the defacto complainant trespassed into the property and damaged the articles worth about 48,000/- and committed theft of articles which includes 7 Kg silver and Rs.3,000/- by cash. He would further submit that there is no previous case pending as against the petitioner and there is a counter case in Crime No.734 of 2020. However, he opposed for grant of anticipatory bail to the petitioner.

5. Taking into consideration the facts and circumstances of the case, there is no previous cases pending against the petitioner and there is a case in counter, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

[a] Accordingly, the petitioner is directed to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date on which order copy made ready, before the learned Judicial Magistrate-V, Salem, 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:

[b] 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.

[c] the petitioner shall report before the respondent police daily at 10.30a.m., for the period of two weeks and thereafter, as and when required.

[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.

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

-sd/-
17/09/2020

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-V,
SALEM

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
KONDALAMPATTI POLICE STATION,
SALEM DISTRICT

+1 CC to M/S. A.S.PRABU Advocate on payment of necessary charges SR.NO.6410

CRL OP.14449/2020

Date :17/09/2020

GKS:24/09/2020

सत्यमेव जयते

WEB COPY