

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :25.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA
Crl.O.P.No.15144 of 2020

1.D.Noble Mangal Kumar
2.D.Merlin

... Petitioners

Vs.

State rep.by,
The Inspector of Police,
K-2, Ayanavaram Police Station,
Ayanavaram.

Crime No.1006 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on bail in the event of their arrest in Crime No.1006 of 2020 pending on the file of the respondent police.

For Petitioners : Mr.S.Gopinath

For Respondent : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

(The 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 294(b), 506(ii) of IPC and Section 25(1C), 27(1) of Arms Act, 1959, in Crime No.1006 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the de-facto complainant viz., D.Muthukumaran, is that the first petitioner, who is a resident of a flat in the Ayanavaram apartment, fired with his licensed gun in the apartment and created panic and the second petitioner, who is the wife of the first petitioner, had instigated him. Hence the complaint.

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 there was a dispute between the petitioners and residents of the flats regarding car parking. The first petitioner was assaulted by the de-facto complainant and in respect of which, a complaint has been given by the second petitioner. The said complaint was taken on file in CSR.No.1175 of 2020. Further the petitioners have also objected other persons from entering into the flats and thereby a false complaint has been given against them. He would further submit that after the said issue, the first respondent surrendered his licensed AIRGUN on 14.09.2020 at Dindigul armoury. Therefore, he prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that there was a dispute between the petitioners and other residents of the Ayanavaram Apartment and the petitioners in order to threaten and cause panic to the flats members, fired with his gun and created panic. He would further submit that there are no previous against the petitioners. However, he opposed to grant anticipatory bail to the petitioners.

5. Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. Accordingly, the petitioners are directed to be released on bail in the event of their arrest or on their appearance, within a period of fifteen days from the date of receipt of the copy of the order, before the learned V Metropolitan Magistrate Court, Egmore at Chennai, 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 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 shall stay at Dindigul, and the petitioners shall report before the Dindigul Town Police Station everyday at 10.30 a.m., until further orders.

[c] the petitioners shall not tamper with evidence or witnesses 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.

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

-sd/-
25/09/2020

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 METROPOLITAN MAGISTRATE COURT NO.V,
EGMORE, CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
K-2, AYANAVARAM POLICE STATION,
AYANAVARAM, CHENNAI.

4 THE OFFICER INCHARGE,
DINDIGUL TOWN POLICE STATION,
DINDIGUL.

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

CRL OP.15144/2020

Date :25/09/2020

MK:06/10/2020