

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.14775 of 2020

1.Mukeshkumar

2.Nirmal Kumar

... Petitioners/Accused

Vs.

The State represented by,
The Inspector of Police,
Muthupettai Police Station,
Thiruvarur District.

Crime No. 1681 of 2020

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioners on anticipatory bail in the event of their arrest in connection with Crime No. 1681 of 2020, on the file of the respondent police.

For Petitioners : Mr.A.Meenakshi Sundaram

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 147, 148, 452, 294(b), 324, 307, 379, 506 (ii) of IPC and 3(1) of TNPDL Act, 1992, in Crime No. 1681 of 2020, on the file of the respondent police, seek anticipatory bail.

2 The case of the prosecution as per the defacto complainant one Sabir Ahmed is that he was running a Hotel near a TASMAL shop. While so, on 13.06.2020 at about 03.00 p.m., Al/Sivakumar had come to the hotel and asked the defacto complainant to give Biriyanis packets at free of cost. When the defacto complainant had refused the same, the other accused joined along with Al/Sivakumar saying that they belong to a particular political party and picked up a quarrel with him

during which, the accused persons had abused him in filthy language, attacked him and also caused damages to the two wheeler parked in front of the defacto complainant's shop.

3 The learned counsel appearing for the petitioners would submit that this is the second application for anticipatory bail and that petitioners have been falsely implicated in this case, since they happen to be the friends of A1 and members of political party. He would submit that the main accused in this case has been arrested and enlarged on bail and that as far as the petitioners are concerned there is no previous case pending against the petitioners. Hence, he prays to grant anticipatory bail to the petitioners.

4 The learned Additional Public Prosecutor appearing for the respondent would submit that as far as the first petitioner is concerned there are three previous cases against him and as far as the second petitioner is concerned there are no previous cases against him. He would further submit that the accused persons are belonging to a particular political party and that on the date of occurrence, they had gone to the defacto complainant's hotel and asked him to serve free Biriyan and the defacto complainant has refused the same. However, without any provocation, the petitioners have abused and assaulted the defacto complainant and caused damages to the two wheeler parked on the spot. Hence, she opposed to grant anticipatory bail to the petitioners.

5 Taking into consideration the facts and submissions made by the learned counsel and considering the fact that there are three previous cases pending against the first petitioner, this Court is not inclined to grant anticipatory bail in respect of the first petitioner. Hence, this Criminal Original Petition stands dismissed in respect of the first petitioner. However, considering the fact that there are no previous cases pending against the second petitioner, this Court is inclined to grant anticipatory bail to the second petitioner subject to the following conditions:

6 Accordingly, the second petitioner is directed to be released on bail in the event of his arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate, Thiruthuraipoondi, on condition that the second petitioner 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 second 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 second petitioner shall report before the respondent police every day at 10.30 a.m., for a period of two weeks and thereafter every Monday at 10.30 a.m., until further orders.

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

[d] the second 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 second petitioner in accordance with law as if the conditions have been imposed and the second 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 abscond, a fresh FIR can be registered under Section 229A IPC.

7 With the above directions, this Criminal Original Petition is ordered in respect of the second petitioner.

-sd/-

22/09/2020

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,
THIRUTHURAIPOONDI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

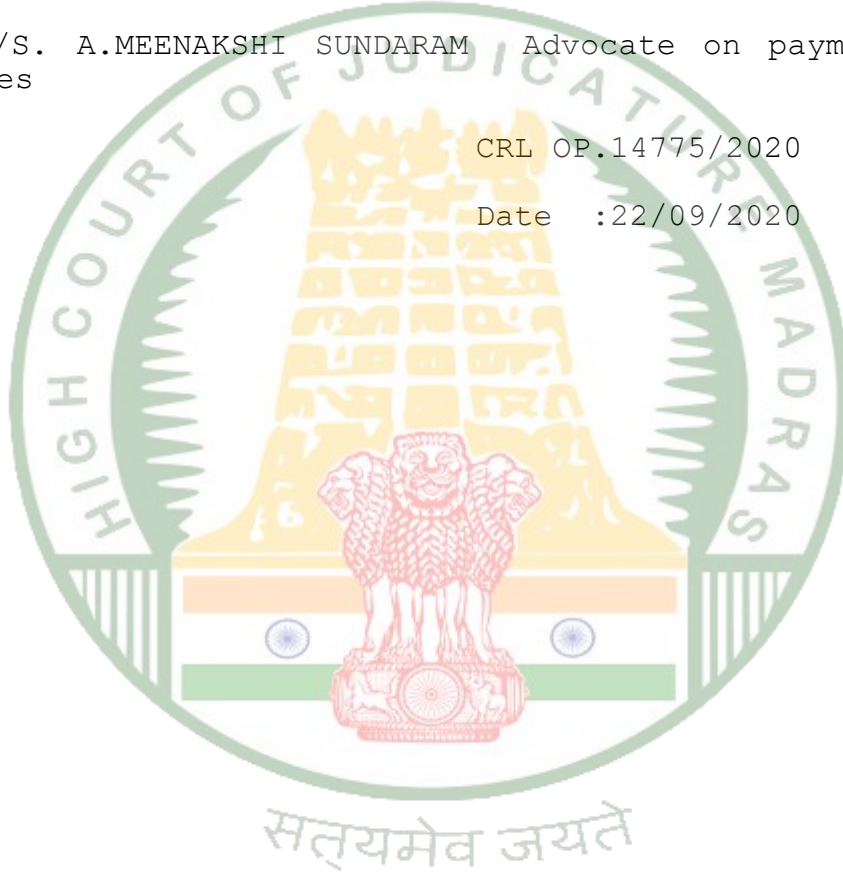
3 THE INSPECTOR OF POICE,
MUTHUPETTAI POLICE STATION,
THIRUVARUR DISTRICT.

CC to M/S. A.MEENAKSHI SUNDARAM Advocate on payment of
necessary charges

CRL OP.14775/2020

Date :22/09/2020

MK:29/09/2020



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