

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.14911 of 2020

M.Selvaganapathy

.. Petitioner

/versus/

State Represented by,
The Inspector of Police,
J-6, Thiruvanmiyur Police Station,
Chennai - 600 041.
(Crime No.Not known/2020)

.. Respondent

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioner on bail in the event of his arrest in Crime No.Not known of 2020 pending investigation on the file of the respondent.

For Petitioner : Mr.R.Ganesh Kumar

For Respondent : Mr.C.Iyyappa Raj,
Additional Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 427 and 506(i) IPC, seeks anticipatory bail.

2.The case as projected by the prosecution is that the defacto complainant is Secretary of Thendral Flat, Association, Balakrishnan Road, Thiruvanmiyur, Chennai. The petitioner who is residing in the same flat had developed enmity with the other flat owners. The defacto complainant being a Secretary of flat Flat Owners' Association have fixed CCTV cameras around the Thendral Flats premises to keep the surroundings safe. The petitioner is alleged to have damaged the CCTV cameras cable wires which was recorded in the another CCTV camera. When the same was questioned by the defacto complainant through phone, the petitioner is alleged to have abused him with filthy language and threatened the defacto complainant. Hence, the defacto complainant preferred a complaint to the respondent Police and the same has been registered in C.S.R.No.440 of 2020.

3.The learned counsel for the petitioner submitted that the petitioner has nothing to do with the alleged offences and he has been falsely implicated in this case. He further submitted that the petitioner was a Secretary in Flat Owners' Association for three terms and due to the previous enmity the defacto complainant has given a false complaint against the petitioner. The petitioner has filed an affidavit stating that there will be no damage to any articles held in common at his instance. The petitioner shall file an affidavit to that effect. Hence, he prays to grant anticipatory bail to the petitioners.

4.The learned Additional Public Prosecutor submitted that the petitioner was erstwhile Secretary of the Association for three terms and now, he is not the Secretary. He had been creating disturbance of peace, harmony of the other resident of the flats. There are 32 flats in the apartments, in which except the petitioner others are living in harmony. The petitioner is been regularly causing disturbance to others and not cooperating with other residents. He had cut down the CCTV camera cables in the flats. The petitioner to file an undertaking affidavit before the Court below that he will not create any disturbance to the other residents of the flats. Hence, he opposed for grant of anticipatory bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor.

6. The petitioner has filed an undertaking affidavit before this Court, in paragraph 5 of the affidavit he has stated as follows:

" I submit that since I am residing in the same premises and do not want any nuisance to continue, I am swearing this affidavit affirming that I will not act in any manner detrimental to the interest of the residents of our apartment namely Thendral Flats and there will not be any damage to any articles held in common at my instance. I undertake that I shall extend fullest cooperation to the investigation agency."

7.Taking note of the facts and circumstance of the case and also considering the undertaking affidavit filed by the petitioner, this Court is inclined to grant anticipatory bail to the petitioners, subject to the following conditions.

(a) the petitioner shall execute a bond for a sum of Rs.5,000/- (Rupees five thousand only) within a period of 15 days from the date of receipt of a copy of this order 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 sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned 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 as and when required.

(d)the petitioner shall not commit any offences of similar nature;

(e)the petitioner shall not abscond either during investigation or trial;

(f)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g)on breach of any of the aforesaid conditions, the learned Judicial 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]**;

(h)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/-

01/10/2020

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 NO.XVIII,
SAIDAPET.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

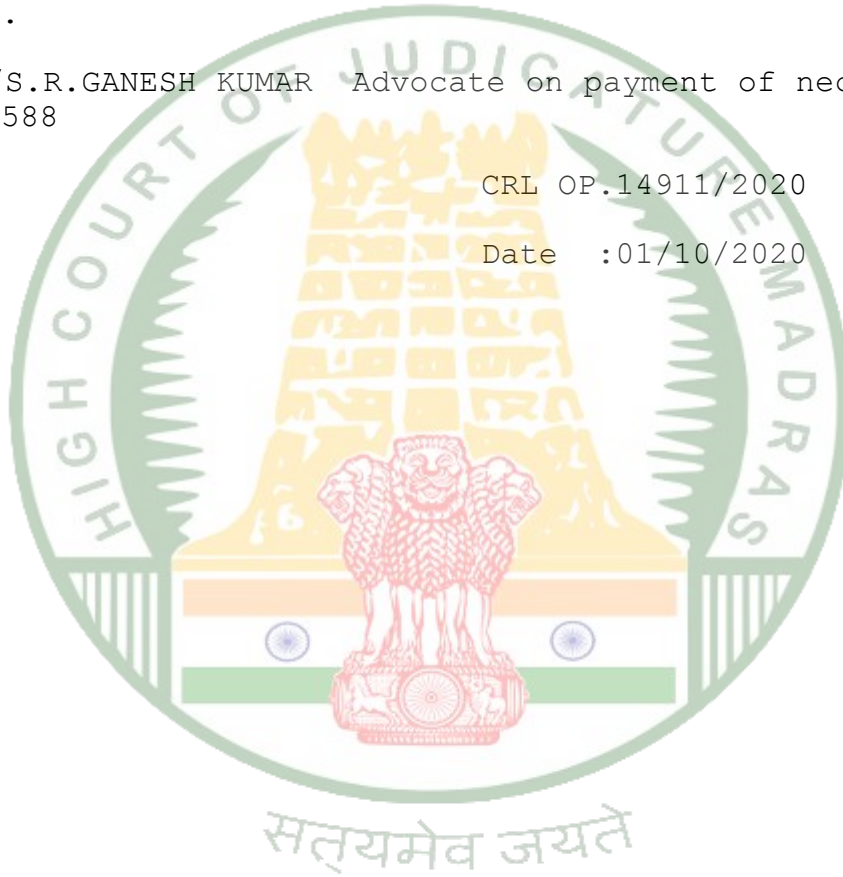
3 THE INSPECTOR OF POLICE,
J-6, THIRUVANMIYUR POLICE STATION,
CHENNAI-600 041.

+1CC to M/S.R.GANESH KUMAR Advocate on payment of necessary
charges SR NO.6588

CRL OP.14911/2020

Date :01/10/2020

MK:05/10/2020



WEB COPY