

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.15239 of 2020

1.Roop Chandar
2.Mahalakshmi

... Petitioners

Vs.

State by,
The Inspector of Police,
H-8, Thiruvotriyur Police Station,
Chennai.
(Crime No.5543 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.5543 of 2020 on the file of the respondent police.

For Petitioners : Mr.G.Mohana Krishnan

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 offences punishable under Sections 294(b), 323, 392, 397, 427 and 506(ii), in Crime No.5543 of 2020, seek anticipatory bail.

2. The case of the prosecution as per the de-facto complainant / Magesh Kumar is that he had advanced Rs.40 lakhs to the accused Nos.A1 and A2 and they executed a bond. When the de-facto complainant asked to repay the said money, they refused. Further, on 12.09.2020 the petitioners sent A3 to A5 to his house and threatened him at knife point and destroyed the documents related to the said loan. Hence the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that earlier the de-facto complainant misbehaved with the second petitioner, in respect of which, a complaint has been given by the second petitioner against the de-facto complainant, which was registered as Crime

No.3412 of 2020. The first petitioner also filed a separate complaint against the de-facto complainant for trespassing into his house and threatening him, in respect of which, a case in Crime No.3944 of 2020 has been registered against the de-facto complainant for the offences under Sections 294(b), 448 and 506(i) of IPC. While so, in retaliation, the de-facto complainant has given a false complainant against the petitioners before the Washermanpet Police Station. Hence, he prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioners borrowed a sum of Rs.40,00,000/- from the de-facto complainant and A1 executed bond. When the de-facto complainant asked the petitioners to repay the said money, on 12.09.2020, the first petitioner sent A3 to A5 to his house and they threatened him at knife point and destroyed the documents. Hence, he opposed to grant anticipatory bail to the petitioners.

5. It is seen that the petitioners have lodged two complaints against the de-facto complainant, viz., the first complaint has been lodged in the month of July-7 and the second complaint has been lodged in the month of August, against which, the de-facto complainant filed anticipatory bail petitions, and the same were dismissed by the learned Principal Sessions Judge. Only in retaliation to the above complaints, the present complaint has been filed by the de-facto complainant.

6. Taking into consideration of the facts and circumstances of the case and the fact that it is a case in counter, this Court is inclined to grant anticipatory bail to the petitioners with the following conditions:

7. 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 after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Judicial Magistrate, Thiruvotriyur, on condition that each 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 first petitioner shall report before the respondent police everyday at 10.30 a.m., for a period of four weeks and thereafter every Monday at 10.30 a.m., until further orders and the second petitioner shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

[c] the petitioners shall not tamper with evidence or witness 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/-
28/09/2020

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,
THIRUVOTRIYUR.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
H-8, THIRUVOTRIYUR POLICE STATION,
CHENNAI.

CC to M/S.G.MOHANA KRISHNAN Advocate on payment of necessary charges

CRL OP.15239/2020

Date :28/09/2020