

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.15527 of 2020

Sirajuddin

... Petitioner/2nd Accused

Vs.

The State represented by, ... Respondent/Complainant
The Inspector of Police,
G-1, Vepery Police Station,
Chennai.
Crime No. 1200 of 2020.

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on anticipatory bail in the event of his arrest by the respondent police in Crime No. 1200 of 2020, on the file of the respondent police.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondent : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 394 & 397 of IPC, in Crime No. 1200 of 2020, on the file of the respondent, seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant viz., L.Lakshmanan is that on 01.08.2020, while he was walking along Ritherdon road by watching his cell phone messages, two persons have come in two wheeler and attempted to snatch his mobile phone. When the defacto complainant had resisted to hand over the mobile phone, the pillion rider inflicted injuries with knife on the head of the defacto complainant and thereafter, they have snatched the defacto complainant's phone and escaped from the scene of occurrence. Thereby, the defacto complainant sustained 12 stitches on the head. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that the petitioner has no connection with the first accused however, for the reason best known, he has been implicated in this case based on the confession of the arrested accused. He would submit that one Dinesh who is not known to the petitioner was arrested and that the respondent has recorded a confession statement from the said Dinesh as if the petitioner had accompanied him at the time of occurrence. He would submit that said A1/Dinesh has been arrested and enlarged on bail. He would submit that the petitioner has personally met the defacto complainant and the defacto complainant confirming that the petitioner is not the person who has accompanied the arrested accused has sworn a notarized affidavit stating that the petitioner is an innocent person and he is not connected with the said offence. He would further submit that there is no previous case pending against the petitioner and that the petitioner is prepared to appear before the respondent police for enquiry. He would further submit that notarized affidavit of the defacto complainant has also been filed before this Court. Hence, he prays to grant anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner along with other accused had waylaid the defacto complainant and robbed his cellphone and at that time they have caused head injury to the defacto complainant. He would further submit that A1 had confessed that the petitioner had accompanied with him on the date of occurrence and that for the reasons best known, the petitioner name has been implicated in this case.

5.Heard both the learned counsels and perused the materials placed on record.

6.Taking into consideration of the facts and circumstances of the case, submissions made by the learned counsels and also considering the notarized affidavit filed by the defacto complainant, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:

7.Accordingly, the 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 No.II, Egmore, Chennai, on condition that the 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 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 petitioner shall report before the respondent police every day at 10.30 a.m., until further orders.

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

[d] the 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 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].

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
04/11/2020

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,
NO.II, EGMORE, CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
G-1, VEPERY POLICE STATION,
CHENNAI.

+1 CC to M/S. N.A.NISSAR AHMED Advocate on payment of
necessary charges SR.NO.7559

CRL OP.15527/2020

Date :04/11/2020