

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

CrI.O.P.No.17578 of 2020

S.Manickam

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
M-8, Sathangadu Police Station,
Chennai.

...Respondent

(Cr.No.2287 of 2020)

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 Connection with the Crime No.2287 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.K. Bommuraj

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

(This case has been heard through video conference)

The petitioner who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 147, 148, 294b, 323, 342 & 307 of IPC, in Crime No.2287 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant viz., Narendiram is that on 16.08.2020 at 9:30 p.m his cousin has lost his cell phone near ITC company ground, hence he gone in search of his cell phone. At that time seven persons have enquired the defacto complainant. The accused got enraged and they caught hold of the defacto complainant and one Bala who is the main accused assaulted the defacto complainant with knife on his left side of neck and since the accused had seen some other persons coming inside the ground they ran away from the scene of occurrence. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated

in this case. He further submitted that a very reading of the FIR itself shows that it is a fabricated case. He would submit that the defacto complainant who is stranger to the place had specifically stated about the names of the person involved. Further he would submit that even as per the allegations in the FIR, one Bala who is the person involved in the offence is stated to have inflicted injury with the knife; as far as the petitioner is concerned, he is stated to be one among the person who is alleged to have caught hold of the defacto complainant. He would submit that the defacto complainant has been discharged from the hospital and that the petitioner has no previous case against him. Hence, he prays for grant of anticipatory bail to the petitioner. He would further submit that the main accused in this case is one Bala and the petitioner's name has been falsely implicated in this case. He would further submit that this is the second anticipatory bail application and one of the co-accused has been granted bail. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner along with other accused had abused the defacto complainant when he had come to the ground to search the cell phone. The petitioner along with other accused caught hold of the defacto complainant and one A1 in this case one Bala inflicted injury with a knife near the neck of the defacto complainant. He would further submit that the injured has been discharged from the hospital and there is no previous case pending against the petitioner. However, he opposed the grant of anticipatory bail to the petitioner.

5. At this juncture, the learned counsel for the petitioner would submit that A3 one Mahesh and A2 one Selvakumar have been arrested and they have been enlarged on bail by this Court in CrI.O.P.No.14530 of 2020 dated 18.09.2020 and CrI.O.P.No.15070 of 2020 dated 25.09.2020. He would further submit that the petitioner has no previous case against him.

6. Taking into consideration the facts of the case and the co-accused has been granted bail and the submissions of the learned Counsel appearing on either side, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before **the Judicial Magistrate, Thiruvottiur, Chennai** on condition that the petitioner shall execute a 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 everyday at 10.30 a.m. And 5:30 p.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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

20/11/2020

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,
THIRUVOTTIYUR, CHENNAI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
M-8, SATHANGADU POLICE STATION,
CHENNAI.

+1 CC to M/S K.BOMMURAJ Advocate on payment of necessary charges SR.NO.7766

CRL OP.17578/2020

Date :20/11/2020