

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.Nos.16252 & 16216 of 2020

A.Saravanakumar ... Petitioner in
Crl.O.P.No.16252 of 2020

A.Nirmal Prakash ... Petitioner in
Crl.O.P.No.16216 of 2020

Vs.

The State Represented by, ... Respondent in both Crl.O.Ps
The Inspector of Police,
Attur Town Police Station,
Salem District.
Crime No.467/2020

Common Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to grant bail to the petitioners in the event of their arrest in connection with Crime No.467 of 2020 on the file of the respondent police.

For Petitioner in Crl.O.P.No.16252 of 2020 : Mr.R.Sathish Kumar

For Petitioner in Crl.O.P.No.16216 of 2020 : Mr.E.C.Ramesh

For Respondent in both Crl.O.Ps : Mr. M. Mohamed Riyaz,
Additional Public Prosecutor

COMMON ORDER

(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 447, 294(b), 323, 354, 324 of IPC and under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 in Crime No.467 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant/Fathima is that A.Noorjahan is an adopted daughter of the defacto complainant and that she was married to one Akbar, Psychotherapist at Bengaluru. Later, she separated from her husband and she was living with the defacto complainant and thereafter, she developed bad company and started living a wayward and immoral life. Despite warning of the defacto complainant and her husband, she continued her immoral affairs and that on 27.06.2020, while the defacto complainant was at home, the petitioner brought two persons

into the house and assaulted the defacto complainant. 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 based on the confession recorded from the arrested accused. He would further submit that even as per the complaint, the names of the petitioners were not found in FIR. He further submit that the co-accused has been granted anticipatory bail by this Court in CrI.O.P.No.16646 of 2020 dated 28.10.2020 and the arrested accused are enlarged on bail by the Court below. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that one Noorjahan was engaged petitioners to attack the defacto complainant. He would further submit that the injured has been discharged from the hospital. However, he opposed for grant of anticipatory bail to the petitioners.

5. Heard the learned Counsel and perused FIR placed on record.

6. Taking into consideration the submissions of the learned Counsel, as also the fact that the co-accused has been granted anticipatory bail by this Court in CrI.O.P.No.16646 of 2020 dated 28.10.2020, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before **the Learned Judicial Magistrate No.I, Attur**, 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 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 petitioners shall report before the respondent police every day at 10.30 a.m., until further orders.

[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 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, these Criminal Original Petitions are ordered.

-sd/-
05/11/2020

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.I, ATTUR, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE,
SALEM [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ATTUR TOWN POLICE STATION,
SALEM DISTRICT.

+1 CC to M/S. R.SATHISH KUMAR Advocate on payment of necessary charges SR.No 7729

+1 CC to M/S. E.C.RAMESH Advocate on payment of necessary charges SR.No 7732

CRL OP.16252 & 16216/2020

Date :05/11/2020