

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Crl.O.P.No.17001 of 2020

Mubharek

...Petitioner/4th Accused

Vs.

The State Represented by
The Inspector of Police,
C-3, Seven Wells Police Station,
Chennai.
(Crime No.43 of 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.43 of 2020 on the file of the Inspector of Police, C-3, Seven Wells Police Station, Chennai.

For Petitioner : Mr.I.Abdul Basith

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 294(b), 323, 324, 341 and 506(ii) IPC in Crime No.43 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Hyder Ali is that on 10.02.2020 at about 11 p.m., while he was returning home after his work, the petitioner along with other accused, waylaid the defacto complainant, abused and assaulted him with iron rod due to which, he sustained grievous injuries. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner was earlier granted anticipatory bail by this Court vide Crl.O.P.No.5763 of 2020 dated 13.03.2020 and due to Covid lockdown situation, the petitioner was unable to execute sureties within the time stipulated by this Court. Thereafter, the petitioner moved a

petition for extension of time in Crl.M.P.No.6107 of 2020 and the same was dismissed by this Court by order dated 08.10.2020 on the ground that the earlier order had already lapsed by efflux of time. However liberty was granted to the petitioner to file a fresh petition for anticipatory bail. He would submit that the petitioner has not committed any offence as alleged by the prosecution and that the co-accused in this case have been granted anticipatory bail by this Court in Crl.O.P.No.3810 of 2020 by order dated 21.02.2020. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor concurred with the statement of the learned Counsel for the petitioner that the petitioner was earlier granted anticipatory bail by this Court vide Crl.O.P.No.5763 of 2020 dated 13.03.2020. He would further submit that the injured has been discharged from the hospital and there is no previous case against the petitioner. However, he opposed for grant of anticipatory bail.

5. Taking into consideration the facts and circumstances of the case and the submissions of the learned Counsels and the fact that the petitioner was earlier granted anticipatory bail by this Court and there is no previous case against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days from the date on which the order copy is made ready, before the learned VIII Metropolitan Magistrate, George Town, 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 daily at 10.30 a.m. for a period of two weeks and thereafter, every Monday at 10.30 a.m. until further orders.

[c] the final order in respect of the said deposit shall be passed by the learned Magistrate at the time of conclusion of trial.

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

[e] the petitioner shall not abscond either during investigation or trial.

[f] 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].

[g] 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/-
29/10/2020

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.VIII, GEORGE TOWN, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
C-3, SEVEN WELLS POLICE STATION,
CHENNAI.

CC to M/S.I.ABDUL BASITH Advocate on payment of necessary charges

CRL OP.17001/2020

Date :29/10/2020

cs 10/11/2020