

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No. 16575 of 2020

Akash @ Anastraj

... Petitioner/Accused

Rank not known

Vs.

The State represented by,
The Inspector of Police,
Nellikuppam Police Station,
Cuddalore District - 607 105.
[Crime No.448 of 2019]

... Respondent/Complainant

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. 448 of 2019, on the file of the respondent police.

For Petitioner : Mr.N.U.Pressanna

For Respondent : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

(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 Section 380 of IPC, in Crime No. 448 of 2019, on the file of the respondent, seeks anticipatory bail.

2 The case of the prosecution as per the defacto complainant viz., Sandhya is that on 03.11.2020 while she was sleeping in her house by leaving her door open, the accused had entered into her house and committed theft of Jewels and mobile phone. Hence, the complaint.

3 The learned counsel appearing for the petitioner would submit that this is the second application for anticipatory bail and that the earlier application was dismissed by this Court on the ground that the arrested accused A1 and A2 were in custody and that the jewels have not been recovered. He would submit that the name of the petitioner has been implicated in this case

only based on the confession given by the co-accused. He would further submit that now the arrested accused have been enlarged on bail and the jewels have been recovered from the accused. 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 two other accused had committed theft of jewels and cell phone belonging to the defacto complainant by entering into her house in night hours. He would submit that the arrested accused in this case have been enlarged bail and that the jewels have been recovered from them. He would further submit that the petitioner has been implicated in this case based on the confession given by the arrested accused and that there is no previous case pending against him. However, he opposed to grant bail to the petitioner.

5 Heard both the learned counsel and perused FIR.

6 Taking into consideration of the facts and circumstances of the case, submissions made by the learned counsels and that the arrested accused have been enlarged on bail, 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 is made ready, before the learned Judicial Magistrate No.I, Cuddalore, 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. and 05.30 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 abscond, a fresh FIR can be registered under Section 229A IPC.

8 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 JUDICIAL MAGISTRATE NO.I,
CUDDALORE.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
NELLIKUPPAM POLICE STATION,
CUDDALORE DISTRICT 607105

CC to M/S. N.U.PRESSANNA Advocate on payment of necessary charges

CRL OP.16575/2020

Date :29/10/2020

MK:05/11/2020