

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

CRL.O.P.No.17806 of 2020

G.Muthukumar,
S/o.Govindaraj

.. Petitioner

/versus/

State Represented by,
Sub-Inspector of Police,
K-1, Sembium Police Station,
Chennai.
(Crime No.980 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. 980 of 2020 pending investigation on the file of the respondent.

For Petitioner	:	Mr.G.Muthukumar
For Respondent	:	Mr.C.Iyyappa Raj, Additional Public Prosecutor

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The petitioner/accused, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 294(b) and 506(i) IPC, seeks anticipatory bail.

2. The case of the prosecution is that on 30.07.2020 at about 7.00 am., when the defacto complainant was walking near Shalimar Hotel (Perambur High Road), the petitioner is alleged to have threatened and abused him by saying that he will kill the defacto complainant. Hence, the case came to be registered.

3. The learned counsel for the petitioner submitted that the defacto complainant has given a false complaint implicating the petitioner. The petitioner is innocent and he has nothing to do with the alleged offence. He further submitted that the respondent Police twice examined the petitioner in the presence of the defacto complainant and on both the occasions it was found by the respondent Police that there is no such occurrence as mentioned by the defacto complainant had occurred. Therefore the complaint was closed by the respondent. Thereafter, the defacto complainant approached the V Metropolitan Magistrate, Egmore in Crl.OP.No.10865 of 2020 under Section 156(3) of Cr.P.C with false pleading. As per the direction of the V Metropolitan Magistrate, Egmore in Crl.OP.No.10865 of 2020 dated 22.09.2020, the respondent Police registered a case against the petitioner. Hence, prayed for anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor submitted that there is a enmity between the petitioner and the defacto complainant's family with regard to the possession of land. On 30.07.2020 at about 7 a.m., the petitioner threatened and abused the defacto complainant by saying that he will kill the defacto complainant. The defacto complainant approached the respondent Police and lodged a complaint against the petitioner but the same was refused since there was no evidence for being threatened by the petitioner. Therefore, the defacto complainant filed a petition under Section 156(3) of Cr.P.C before the V Metropolitan Magistrate, Egmore, seeking direction to the respondent Police to register the complaint. As per the direction of the V Metropolitan Magistrate, Egmore, the respondent Police registered a case against the petitioner and the investigation is at nascent stage. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor.

6. Taking note of the facts and circumstance of the case, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions.

(a) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) within a period of 15 days from the date of receipt of a copy of this order 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:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(c) the petitioner shall report before the respondent Police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]***;

(h) 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.

10.11.2020

rst

To:

- 1.The V Metropolitan Magistrate,
Egmore.
- 2.The Sub-Inspector of Police,
K-1, Sembium Police Station,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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