

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No. 18822 of 2020

Sankar

... Petitioner/3rd Accused

Vs.

The State represented by,
The Inspector of Police,
Gangavalli Police Station,
Salem District.
[Crime No. 503 of 2020]

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of his arrest by the respondent police in Crime No. 503 of 2020, on the file of the respondent police.

For Petitioner : Mr.M.Rajendran

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

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 294 (b), 323, 324 and 506(2) of I.P.C., in Crime No.503 of 2020, on the file of the respondent, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant viz., Kumar is that he used to go to Kerala for his job and that one Manoharan has developed illicit intimacy with his wife. Whiles, on 28.10.2020 at 02.a.m., when he was sleeping along with his wife and children, the petitioner along with other accused had entered into his house and the said Manoharan had threatened him by stating that he should leave his wife and thereafter, attacked him and thereby, the victim had raised alarm and thereby, neighbours came and rescued him and thereafter, the accused persons had escaped from his home. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case since, he happens to be the friend

of the first accused. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the first accused had developed illicit intimacy with wife of the defacto complainant and thereby, wordy quarrel took place between the defacto complainant and the accused persons and at that time, the accused have assaulted the defacto complainant and thereby, he sustained injuries. He would further submit that the injured has been discharged from the hospital and that there is no previous case pending against the petitioner. However, he opposed to grant anticipatory bail to the petitioner.

5. Taking into consideration of the facts and circumstances of the case and the submissions made by the learned counsel and considering the fact that the victim has been discharged from the hospital, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

6. 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 made ready, before the learned Judicial Magistrate No.II, Attur, 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., for a period of two weeks and thereafter every Monday at 10.30 a.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.

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

-sd/-

01/12/2020

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.II, ATTUR.

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

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
GANGAVALLI POLICE STATION,
SALEM DISTRICT.

+1 CC to M/S. M.RAJENDIRAN Advocate on payment of necessary charges SR.No 7868

WEB COPY CRL OP.18822/2020
Date :01/12/2020

MN-07/12/2020