

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.18755 of 2020

1.Udhayakumar @ Paramakudi Udhaya
2.Balasubramani @ Inungur Balu

... Petitioners

Vs.

State rep. by
The Inspector of Police,
Namakkal Police Station,
Namakkal District.
Crime No.1152 of 2020

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of their arrest in Crime No.1152 of 2020 pending on the file of the respondent police.

For Petitioners : Mr.B.Mohan

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

O R D E R

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 147, 148, 294(b), 341 and 307 of IPC, in Crime No.1152 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that on 14.08.2020, the petitioners along with other accused persons planned to murder him and thereby brutally attacked the defacto complainant and his friend with deadly weapons in an indiscriminate manner all over the body and caused grievous injuries.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and due to previous enmity, they have been falsely implicated in this case. He would further submit that this is the second anticipatory bail petition and the earlier application in Crl.O.P.No.14426 of 2020 was dismissed by this Court vide order dated 16.09.2020. He would further submit that the change of circumstances is that the victim has been discharged from the hospital.

4.Per contra, the learned Additional Public Prosecutor appearing for the respondent would vehemently oppose stating that the petitioners had planned to murder one Kasirajan, A+ category notorious criminal and other persons. On 14.09.2020 the petitioners along with other accused attacked the defacto complainant and thereby the defacto complainant sustained grievous injuries. He would further submit that there are three previous murder cases pending against the 1st petitioner and there is no previous cases against the 2nd petitioner and the investigation is pending.

5.At this juncture, the learned counsel for the petitioners would submit that the 1st petitioner has got three previous cases and in respect of the 2nd petitioner there is no previous case pending against him and in the F.I.R. also the allegation against the 2nd petitioner is that he was sitting in the car when the incident had taken place and he was not aware of the happenings.

6.Taking into consideration of the fact that there are three previous murder cases pending against the 1st petitioner, this court is not inclined to grant anticipatory bail to the 1st petitioner.

7.Taking into consideration of the fact that there are no previous cases pending against the 2nd petitioner and also considering the fact that the victim has been discharged, this court has inclined to grant anticipatory bail to the 2nd petitioner with certain conditions.

8. Accordingly, the 2nd petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the Judicial Magistrate No.I, Namakkal, on condition that the 2nd petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, for a like sum 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 2nd 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 2nd petitioner shall report before the respondent police daily at 10.30 a.m., until further orders.

[c] the 2nd petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the 2nd 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 2nd petitioner in accordance with law as if the conditions have been imposed and the 2nd 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.

9. With the above directions, this Criminal Original Petition as against the 1st petitioner stands dismissed and this Criminal Original Petition as against the 2nd petitioner stands ordered.

-sd/-

15/12/2020

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. I, NAMAKKAL

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
NAMAKKAL POLICE STATION,
NAMAKKAL DISTRICT.

CC to M/S.B.MOHAN Advocate on payment of necessary charges
Sr.8350

CRL OP.18755/2020

Date :15/12/2020

RVR 21/12/2020