

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.18552 of 2020

Aravind @ Aravind Kumar

... Petitioner

Vs.

State Rep.by

The Inspector of Police

C-4, Rathinapuri Police Station

Coimbatore District

(Crime No.1095 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.1095 of 2020, pending on the file of the respondent police.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mr.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 12.10.2020, for the offences punishable under Section 147, 148, 294(b), 323, 324, 506(ii) and 307 IPC, in Crime No.1095 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner along with A6 on 09.10.2020 had gone to the shop run by the defacto complainant to have soup in the evening hours and the defacto complainant informed them that it would take some time to make the soup ready. Once again the other accused insisted for the soup and immediately without waiting they started to take the soup from the pan, which was objected by the defacto complainant, hence, there was a scuffle. Later the petitioner brought his other friends who are having muscle power in that area and attacked the defacto complainant and abused him, due to which, he sustained injuries on his left hand and forehead. The defacto complainant was immediately rushed to the hospital for treatment.

3.The learned counsel appearing for the petitioner would submit that the petitioner is only 24 years old and he was arrested on 12.10.2020 and he is in prison for the past 40 days, his incarceration would only get him acquainted with other anti social elements and would harden his criminal activities and there is no possibility of him getting reformed. He would further submit that one of the accused is granted bail by the Sessions Court in C.M.P.No.3128 of 2020.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the defacto complainant was running a mutton stall and a soup shop, on the date of occurrence, the petitioner along with other accused had gone to the soup centre and threatened the defacto complainant that the soup to be served to them immediately, due to which, there was a quarrel, due to which, the petitioner brought other accused known to him and assaulted the defacto complainant and abused him, thereby, the defacto complainant sustained injuries on his left hand and forehead and he was treated as out patient. He would further submit that the petitioner has got three previous cases to his credit and he is habituated in indulging in one case or the other.

5. Heard both sides and perused the material placed on record.

6. Taking into consideration of the facts and submissions made by the learned counsels and also considering the fact that the previous cases are of the year 2015, 2017 and 2019 and the petitioner has been suffering incarceration for the past 40 days and also the fact that the co-accused has been enlarged on bail by the Sessions Court, this Court is inclined to grant bail to the petitioner subject to the following conditions:-

(a) Accordingly, the Petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only), with two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate No.II, Coimbatore, and on further conditions 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 on his release from prison shall report before the respondent police everyday at 10.00 a.m. and 5.00 p.m. until further orders.

(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 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];

(h) 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/-

24/11/2020

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, COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
C-4, RATHINAPURI POLICE STATION,
COIMBATORE DISTRICT.

+1 CC to M/S.W.CAMYLES GANDHI Advocate on payment of necessary charges SR.No.7776

CRL OP.18552/2020

Date :24/11/2020