

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No. 18790 of 2020

Samimullah, S/o.M.H.Amanullah ... Petitioner/Accused

Vs.

The State represented by, ... Respondent/Complainant
The Inspector of Police,
Mettupalayam Police Station.
[Crime No. 1137 of 2020]

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. 1137 of 2020, on the file of the respondent police.

For Petitioner : Mr.B.Mohan

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 Sections 294 (b), 323, 324 and 506(ii) of IPC, in Crime No. 1137 of 2020, on the file of the respondent, seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant viz., Benazir, who is the wife of the petitioner is that there was a matrimonial dispute between her and the petitioner. Whiles, on 14.10.2020 at 11.30 hours, when she had gone to the house of the petitioner to take out their children, in the heat of exchange of words, the petitioner had abused her in filthy language, assaulted her with knife and also threatened her with dire consequence. Thereby, the defacto complainant sustained injuries. 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 due to matrimonial dispute. He would submit that originally the petitioner was attacked by the defacto complainant's brother and thereby, a case in Crime No.192

of 2019 has also been registered against him. Therefore, the defacto complainant had insisted the petitioner to withdraw the case against his brother and when the same was refused by the petitioner, the defacto complainant has left from the matrimonial home and foisted a false case against him. 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 is the husband of the defacto complainant and due to matrimonial dispute, the petitioner has abused and assaulted the defacto complainant and thereby, the defacto complainant has 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 submissions made by the learned counsel and 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 is made ready, before the learned Judicial Magistrate, Mettupalayam, 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,
METTUPALAYAM.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
METTUPALAYAM POLICE STATION.

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

CRL OP.18790/2020

Date :01/12/2020

MN-09/12/2020