

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.12.2020

CORAM :

THE HON'BLE Mr. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.20456 of 2020

A.Abinash

... Petitioner

Vs.

State rep. by Inspector of Police
F-5 Choolaimedu Police Station,
Chennai.
Crime No.640 of 2020

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail pending investigation in Crime No.640 2020 on the file of the Respondent Police.

For Petitioner : Mr.G.Hariharan

For Respondent : Mr.T.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 26.08.2020 for the offence punishable under Sections 341, 294(b), 323, 324, 336, 307, 427 and 506(ii) of IPC, in Crime No.640 of 2020, seeks bail.

2. The case of the prosecution as per the de facto complainant Karthick is that on 25.08.2020 at about 9.30.p.m, the accused waylaid him, abused him with filthy language and engaged in a brawl and attacked him with hands and legs and caused injuries to him and thereby, the accused created panic and thereafter, he took a soda bottle from the nearby shop and hurled.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would submit that from the reading of the FIR, it is a case foisted to fix the petitioner, pursuant to which, the Respondent have also shown as if the petitioner had earlier executed

a bond to keep good behavior and thereafter, he has breached the bond and thereby, the Deputy Commissioner, Triplicane, has initiated proceedings against the petitioner and the petitioner has been detained for a period of 354 days. He would submit that earlier application for bail in CrI.O.P.No.15991 of 2020 was dismissed on the ground that the petitioner has been detained for a period of 354 days. He would submit that against the order of detention passed by the Deputy Commissioner, Triplicane, for the offence under Section 107 Cr.P.C proceedings, the petitioner has filed CrI.RC.No.1096 of 2020 and this Court, had suspended the sentence in CrI.MP.No.7614 of 2020 dated 04.12.2020 and in this case, the petitioner is on bail.

4. The learned Government Advocate (CrI. Side) appearing for the respondent police would vehemently oppose stating that the petitioner waylaid the de facto complainant and assaulted him and thereafter, created panic in the public.

5. Heard the learned counsel on either side and perused the entire materials available on record.

6. Taking into consideration the facts and circumstances of the case and the submissions of the learned Counsels and that the detention order has been stayed and the petitioner has been granted suspension of sentence in CrI.MP.No.7614 of 2020 and also considering the period of incarceration suffered by the petitioner, 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 like sum to the satisfaction of the learned XVII Metropolitan Magistrate, Saidapet, Chennai, 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 the prison, shall report before the respondent police everyday at 10.30 a.m and 5.30.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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
22/12/2020

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 METROPOLITAN MAGISTRATE
NO.XVII, SAIDAPET, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
F-5 CHOOLAIMEDU POLICE STATION,
CHENNAI.

+1 CC to M/S.G.HARIHARAN Advocate on payment of necessary charges
SR.No.8587

CRL OP.20456/2020

Date :22/12/2020