

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Cr1.O.P.No.121 of 2021

1. Udhaya Kumar ... Petitioners
2. Sathish Kumar
3. E. Sivaprakasam

Vs.

The State rep. by ... Respondent
The Inspector of Police,
Neelankarai Police Station,
Kancheepuram District.
(Crime No.1425 of 2020)

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of their arrest in Crime No.1425 of 2020 pending on the file of the respondent.

For Petitioners: Mr.G.Magesh Kumar

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioners are arrayed as A1 to A3. They apprehend arrest at the hands of respondent police for the offence punishable under Sections 147, 148, 294(b), 448, 323, and 506(i) of I.P.C. and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 in Crime No.1425 of 2020 and now, they have filed the above petition seeking for anticipatory bail.

2. The petitioners 1 and 2 are father-in-law, and brother-in-law of the defacto complainant. The case of the prosecution is that due to the property dispute, on the date of occurrence, all the petitioners trespassed into the defacto complainant's house and attacked her, who was a pregnant lady. In the said circumstances, the criminal case has been registered against the petitioners. Now, apprehending arrest, the present petition has been filed seeking to grant anticipatory bail.

3. The learned counsel appearing for petitioners would submit that due to a property dispute, there was a wordy quarrel

between defacto complainant's husband and his brother, wherein the petitioners said to have intervened and tried to arrive a compromise between them. He would submit that the petitioners are innocent persons and they are no way connected with the offence. He would also submit that they have been falsely implicated in this case. Hence, he prayed to grant anticipatory bail to the petitioners.

4. The learned counsel appearing for intervenor would submit that due to a property dispute, all the petitioners along with other strangers entered into the house of defacto complainant, and accused persons 1 and 2 have kicked up the lady in her stomach, who was pregnant. Hence, the present complaint has been filed against the petitioners.

5. The learned Additional Public Prosecutor would submit that due to a property dispute, there was a wordy quarrel between petitioners and defacto complainant, as a result of which, the petitioners have attacked the defacto complainant in her stomach, who was a pregnant lady. He would submit that the injured was discharged from the hospital. Hence, he opposed to grant anticipatory bail to the petitioner.

6. I have heard and considered the rival submissions made by the learned counsel appearing for petitioners as well as learned Additional Public Prosecutor and perused the records.

7. Taking into consideration of the fact that due to a family dispute, the occurrence was taken place and both the petitioners and defacto complainant are close relatives, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions:

a) Accordingly, the petitioners are ordered to be released on bail, in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Alandur, on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties, 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, and on further condition that:

[b] 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;

[c] the petitioners shall appear before the respondent police as and when required ;

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioners shall not abscond either during investigation or trial;

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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];

[g] 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/-
21/01/2021

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,
ALANDUR, CHENNAI.

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

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
NEELANKARAI POLICE STATION,
KANCHEEPURAM DISTRICT.

+1 CC to M/S.G.MAGESH KUMAR Advocate on payment of necessary charges SR NO. 660

CRL OP.121/2021

Date :21/01/2021