



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P.No.11465 of 2021

1. Kirubhasankar ...Petitioners
2. Ramu @ Ramachandran

Versus

The State by ...Respondent
The Inspector of Police,
Malayampalayam Police Station,
Erode District.
(Crime No.58 of 2021)

PRAYER: Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to grant Anticipatory Bail to the petitioners in the event of arrest or their appearance before any court in connection with case in Crime No.58 of 2021 pending investigation on the file of the respondent police.

For Petitioners : Mr.R.Prabakar

For Respondent : Mr.A.Gopinath
Government Advocate (Crl. Side)

For Intervenor : Mr.S.Saravanan

ORDER

The petitioners, who apprehend arrest for the alleged offence under Sections 341, 294(b), 324, 506(i) IPC altered to 147, 148, 341, 294(b), 323, 324, 326, 506(ii) IPC and subsequently further altered to 147, 148, 341, 294(b), 323, 324, 326, 506(ii) IPC and 3(2)(Va) and 3(1)(r), (s) of SC/ST Act 1989 as amended by Amendment Act 2015, in Crime No.58 of 2021, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the petitioners along with other accused persons had abused and assaulted the defacto complainant and caused injuries and threatened him with dire consequences and took away his mobile phone. Hence, the complaint was registered.



3. The learned counsel appearing for the petitioners submit that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. He further submits that the offence under SC/ST (POA) Act, cannot be registered against the petitioners as the petitioners too belong to the same Caste and Section 18 bars registration of the case against the persons of the same Caste. He further submits that the petitioners are ready to hand over the cell phone to the defacto complainant. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl.Side) submits that the petitioners along with other accused persons had abused and assaulted the defacto complainant and thereby caused injuries and threatened him with dire consequences. He further submit that the injured person has been discharged from the hospital. It is the further submission of the learned Govt Advocate that since offence are under the SC/ST Act, the petitioners should approach the Court below for bail and anticipatory bail is not maintainable.

5. The learned counsel for the intervenor/defacto complainant submits that the petitioners along with other accused persons had abused and assaulted the defacto complainant and thereby caused injuries and snatched a cell phone from the defacto complainant. Hence, he strongly opposed for grant of anticipatory bail to the petitioners

6. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respective respondents and perused the materials available on record.

7. Though it is the contention of the learned Government Advocate (Crl.Side) that in view of the invocation of offences under the SC/ST Act, the petitioners are not entitled for anticipatory bail and that they have to approach the jurisdictional Special Court for bail, the said submission would not stand in view of the fact that the petitioners too belong to the same faction, viz., SC/ST and, therefore, invoking the provisions of the SC/ST Act against the same set of persons is impermissible in view of the bar u/s 18 of the SC/ST Act. Therefore, the present petition filed by the petitioners for anticipatory bail is perfectly maintainable.

8. Further, this Court taking into consideration the fact that the person injured has since been discharged from the hospital and that there are no previous case pending against the petitioners and that the petitioners not being habitual offenders and that the occurrence had happened in the midst of a wordy quarrel between the petitioners and the defacto complainant, this Court is inclined to grant anticipatory bail to the petitioners.

9. 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 Special Court for SC/ST cases/ Principal District and Sessions Court, Erode, on condition that the petitioners 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 and on further condition that:

(a) if the petitioners fail to surrender before the concerned Magistrate within a period of 15 days from the date of receipt of a copy of this order, this order shall stand automatically cancelled;

(b) the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(c) the petitioners shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation.

(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]**; and;

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

05/07/2021

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 SPECIAL COURT FOR SC/ST CASES/
PRINCIPAL DISTRICT AND SESSIONS COURT,
ERODE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
MALAYAMPALAYAM POLICE STATION,
ERODE DISTRICT.

+1 CC to M/S. R.PRABAKAR Advocate on payment of necessary
charges SR.NO.7058

CRL OP.11465/2021

Date :05/07/2021

TA-19/07/2021