

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2021

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.18794 of 2020

A.Sivasankaran

.. Petitioner

Vs.

State by. Inspector of Police (L&O),
K.V Kupppam Police Station,
Vellore.

Crime No.354 of 2020

.. Respondent

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code, praying to enlarge the petitioner on bail in the event of their arrest in Crime No.354 of 2020 on the file of the respondent police police station.

For Petitioner : Mr.V.K.Sathiamurthy

For Respondent : Mr.C.Iyyappa Raj,
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences under Sections 147, 148, 294(b), 323, 324, 332 and 307 of IPC in Crime No.354 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the de-facto complainant one Sasikumar is that on 08.06.2020, at about 9.00 p.m, during night rounds, the de-facto complainant along with Home Guard namely Mr.Kirankumar and friends of police, Mr.Vignesh at Kanguppam at Mahadevar Mount, got an information that a group of people were playing game of cards and consuming alcohol. When the de-facto complainant along with his police party went to the spot and questioned them, the petitioner along with other accused persons abused the police party with filthy language and suddenly attacked the de-facto complainant and others with stones and thereafter, they fled away from the scene of occurrence. Due to the said attack, the de-facto complainant sustained injury and he was admitted in the hospital for treatment.

3. The learned counsel for the petitioner would submit that this is the fourth application for anticipatory bail. He would submit that there is no pre-meditation or motive for the petitioner to attack the policemen. Even as per the prosecution, the incident had happened in the night hours and that the petitioner was not aware that the persons who had come to the occurrence place were policemen and the petitioner has been implicated in this case only on suspicion. He would further submit that the petitioner has no previous case against him and that the arrested accused have been enlarged on bail. He would further submit that while the arrested accused were in custody, the respondent have not taken them into police custody for the purpose of identification and thereby, there is no necessity or need for custodial interrogation of the petitioner and that the major part of investigation is over. Hence, he prays for grant of anticipatory bail.

4. The learned Additional Public Prosecutor vehemently opposed stating that this is the fourth application for anticipatory bail and the allegation against the petitioner is that while the defacto complainant along with his police party were on rounds, the defacto complainant got an information that a group of people involved in gambling and consuming alcohol. When the de-facto complainant along with his police party went to the spot and questioned, the petitioner and other accused have brutally assaulted the de-facto complainant, due to which he sustained injuries. He would further submit that the injured has been discharged from the hospital and the investigation has been completed and the charge sheet is made ready and it has not been filed before the Court.

5. At this juncture, the learned Counsel for the petitioner would reiterate that the other arrested accused have been enlarged on bail and the alleged incident had happened at about 9 '0' clock in the night hours and that the defacto complainant and others were not in uniform and there is no motive for the petitioner to attack them.

6. Taking into consideration the facts and circumstances of the case and the fact that the arrested accused have been enlarged on bail and the charge sheet has been made ready, this Court is inclined to grant bail to the petitioner subject to the following conditions;

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before the Judicial Magistrate, Katpadi, on condition that the petitioner shall 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 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 daily at 10.30 a.m. and 5.30 p.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.

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

-sd/-

04/01/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

सत्यमेव जयते
Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

WEB COPY

TO

1 THE JUDICIAL MAGISTRATE,
KATPADI.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

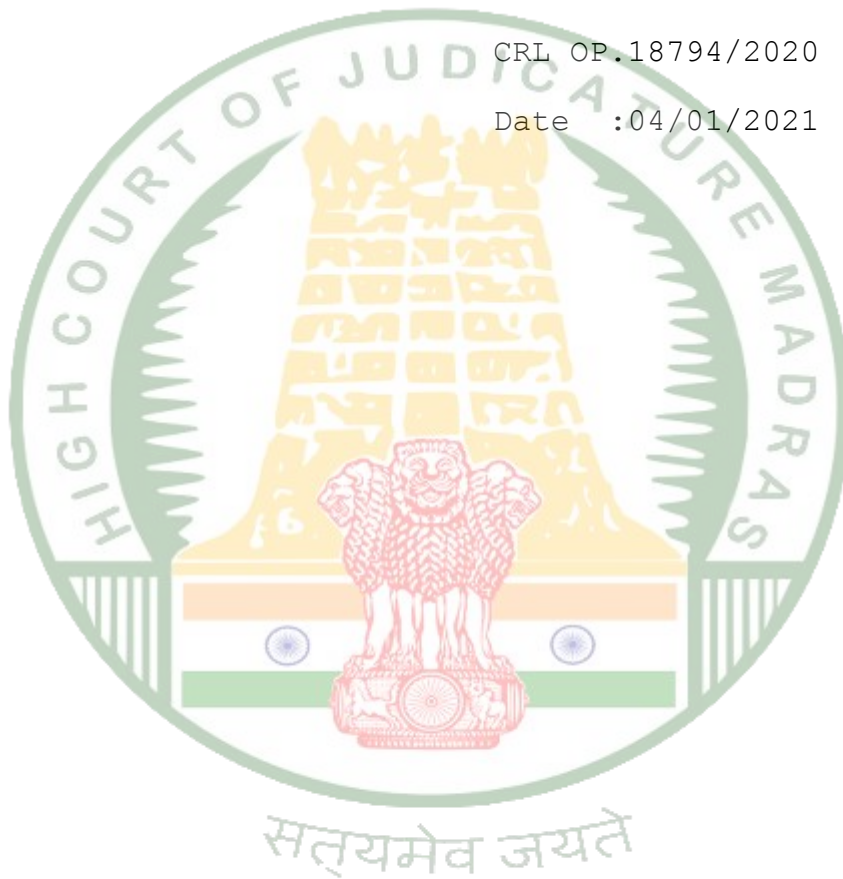
4 THE INSPECTOR OF POLICE (L AND O),
K.V.KUPPAM POLICE STATION,
VELLORE.

CC to M/S.C.RAJAN Advocate on payment of necessary charges

CRL OP.18794/2020

Date :04/01/2021

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