

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.20662 of 2020

1. Madhesh
2. K.Prakash

... Petitioners

Vs.

The State Rep. by
The Inspector of Police,
Magudamchavadi Police Station,
Salem District.
(Crime No.769 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of their arrest in Crime No.769 of 2020 pending investigation on the file of the Respondent.

For Petitioners: Mr.W.Camyles Gandhi

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

ORDER

(The case has been heard through video conference)

Totally, there are three accused and the petitioners are arrayed as A2 and A3. They apprehend arrest at the hands of the respondent police for the offence punishable under Sections 341, 307 and 324 of I.P.C. in Crime No.769 of 2020 and now they have filed this petition seeking for anticipatory bail.

2. The case of prosecution is that during Deepavali festival time, there was a wordy quarrel between the petitioners and the defacto complainant. On the date of occurrence, due to previous enmity, when the defacto complainant standing nearby tea shop, A1 attacked the defacto complainant and these petitioners said to have caught hold of him, thereby, he sustained injuries. In the said circumstances, the present complaint has been filed against the petitioners. Now, it is stated that A2 was arrested and he was already released on bail.

3. The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have

not committed any offence as alleged by the prosecution and a false case has been foisted against them. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor submitted that the injured has been discharged from the hospital. He would submit that there are no previous cases pending as against the petitioners. However, he opposed for grant of anticipatory bail to the petitioners.

5. 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.

6. Taking into consideration the fact that the injured has been discharged from the hospital, the other arrested accused, A2 was released on bail and the injured was also discharged from the hospital, this Court is inclined to grant anticipatory bail to the petitioners, 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-II, Sankari, on condition that the petitioners 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 daily at 10.30 a.m. until further orders;

[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/-

20/01/2021

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,
NO.II, SANKARI.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MAGUDAMCHAVADI POLICE STATION,
SALEM DISTRICT.

+1 CC to M/S. W.CAMYLES GANDHI Advocate on payment of
necessary charges SR NO. 606

CRL OP.20662/2020

Date :20/01/2021

MN-25/01/2021