

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the First day of June Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice B.PUGALENDHI

CRIMINAL ORIGINAL PETITION No.12852 of 2022

HASSAN BASHA

[PETITIONER / ACCUSED]

Vs

STATE REP BY
THE INSPECTOR OF POLICE,
B-1 NORTH BEACH POLICE STATION,
CHENNAI
(CRIME NO.101 OF 2022)

[RESPONDENT]

For Petitioner : M/S.P.PRINCE PREMKUMAR Advocate

For Respondent : MR.A.GOKULAKRISHNAN, Additional public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences under Sections 147, 294(b), 324, 307, 344, 364A and 506(ii) IPC r/w Section 34 IPC in Crime No.101 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that, while the de-facto complainant was returning from Dubai, one Arun Prasad/A3 gave one kilogram of Gold to hand over the same to one Hakkim/A1, at Ahmedabad and assured to give a sum of Rs.1,00,000/- to the de-facto complainant. For getting money, the de-facto complainant accepted to transport the Gold and he kept the Gold on his anus. Thereafter, due to pain, he handed over the Gold to his friend Anish Kumar, co-traveller, for transporting it to Ahmedabad. However, the said Anish Kumar left the Ahmedabad Airport, before the complainant reaches the Ahmedabad Airport and take over the Gold. Hence Hakkim/A1 gave a complaint. At that time, the de-facto complainant was threatened by the accused persons and he was taken to various places viz., Pondicherry, Chennai, Nagarkovil in a car by the accused persons and

he was detained in hotels and assaulted by the accused persons and he was admitted in the hospital for taking treatment. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the de-facto complainant has initially lodged a complaint, as if, while he was attending the painting work, he had fell down and sustained injuries. However, later, he changed his version and gave a false complaint. He would further submit that, the co-accused have already been granted anticipatory bail and the petitioner is ready and willing to file an undertaking affidavit before the concerned court that he will not disturb the de-facto complainant at any point of time.

4. The learned Additional Public Prosecutor appearing for the respondent police submitted that A3 handed over the Gold to the de-facto complainant to transport the same and to hand over it to A1 at Ahmedabad. Since the de-facto complainant had not handed over the Gold as assured, the petitioner along with others had taken him in a car and confined him in hotels at various places and assaulted him and caused grievous injuries. He would further submit that the injured has been discharged from hospital and the co-accused has been released on bail. However, he strongly opposed to grant anticipatory bail.

5. Considering the facts and circumstances of the case and also taking note of the fact that the injured has been discharged from the hospital and the co-accused has already been released on bail, and also taking into account the undertaking given by the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned VII Metropolitan Magistrate, George Town, Chennai, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties each for a like sum 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 their 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 file an undertaking affidavit that he will not disturb the de-facto complainant at any point of time, before the concerned Magistrate, at the time of furnishing the sureties.

[c] the petitioner shall report before the respondent police daily at 10.30 a.m and 6.00 p.m until further orders.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner 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 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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

01/06/2022

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.VII, GEORGE TOWN, CHENNAI.

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

3 THE INSPECTOR OF POLICE,
B-1 NORTH BEACH POLICE STATION,
CHENNAI

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.P.PRINCE PREMKUMAR Advocate on payment of necessary charges SR.NO.8326

CRL OP.12852/2022

Date :01/06/2022

JPA 03/06/2022