



Crl.O.P.No.10195 of 2023

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A.D.JAGADISH CHANDIRA, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 324 and 506(ii) of IPC, in Crime No.109 of 2023 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the de facto complainant Village Administrative Officer, Karapakkam is that the accused have assaulted a mentally retarded person with wooden logs, cricket bat and stones due to which, he sustained injuries. Based on the information, the victim was taken to the hospital and a case in crime no.109 of 2023 was registered for the offences under Section 323 and 5006(ii) of IPC against certain named persons and others. Later during the course of the investigation, the victim succumbed to the injury and thereafter the case was altered to one under Section 302 IPC. Hence, the case.



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3. The learned counsel for the petitioner would submit that even as per the FIR the victim is the person who has allegedly attacked A4 and his girlfriend while they were travelling in a motor cycle and thereafter the victim around 07.30 p.m., on the same day had also attacked one Ganesan who was travelling in a two wheeler. Thereafter the said Ganesan had retaliated by attacking the victim with sticks. The petitioner was also around that area and finding that the victim was violent, they assaulted him with stones. He would also submit that only later, the petitioner and others came to know that the victim is a mentally retarded person. Since the victim was behaving in a violent manner, the petitioner and other persons in the public had retaliated and there was no intention on the part of the petitioner and other accused to commit murder of the victim. He would further submit that initially the case was registered for offence under Sections 324 and 506(ii) on 13.04.2023 and the victim succumbed to the injury on 15.04.2023. He would also submit that, even as per the averments in the complaint, the allegations against the petitioner is that he has pelted stones on the victim. He would also submit that the defacto complaint is not an eye witness to the occurrence.



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He would also submit that earlier the petitioner also understands that the victim has also attacked several persons in the vicinity on the previous date. He would also submit that one Ganesan is stated to have assaulted the victim with cricket bat and he has been granted anticipatory bail by this Court in Crl.O.P.No.10057 of 2023. Hence, he would pray for the grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl.side) appearing for the respondent would submit that victim is a mentally retarded person and he had attacked A3 and A4 while they were travelling in the bike and later he had also attacked one Ganesan. He would also submit that the petitioner and others have retaliated and assaulted him resulting in he sustaining injuries. However, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Heard both sides and perused the materials available on records.



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6. Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain 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 days from the date on which the order copy made ready, before **the learned Judicial Magistrate No.I, Poonamallee**, 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.



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[b] the petitioner shall report before the respondent police everyday at 10.30 a.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.

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