



WEB COPY



Crl.O.P.No.11794 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.05.2024

CORAM:

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

Crl.O.P.No.11794 of 2024

1. Balaji
S/o.Siva
2. Ramesh
S/o.Murugesan
3. Vijay
S/o.Kamaraj
4. Siva
S/o.Murugan
5. Mani
S/o.Sundaram

... Petitioners/ Accused

Versus

The State represented by
The Inspector of Police,
Karuppur Police Station,
Salem City.
(Crime No.365 of 2024)

... Respondent/Complainant

PRAYER:

Criminal Original Petition filed under Section 438 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to enlarge the petitioners on bail in the event of their arrest in Crime No.365 of 2024 on the file of the respondent police pending investigation.



WEB COPY



Crl.O.P.No.11794 of 2024

For Petitioners : Mr.R.Sankarasubbu
For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed by the petitioners on 13.05.2024 under Section 438 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant an order of pre-arrest bail.

2. The petitioners/accused, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 147, 294(b), 323, 324 and 506 part II of the Indian Penal Code, 1860 (Act No.45 of 1860) in Crime No.365 of 2024 on the file of the respondent police.

3. The case of the prosecution is that when the *de-facto* complainant was returning from T.Kollappatti to Vellalappatti on 02.05.2024, at about 5.40 p.m., two identified persons and three unidentified persons came with their two wheeler and one among them abused the *de-facto* complainant with filthy language and assaulted him with iron pipe and the other accused persons also attacked him. Hence, the case.



4. The learned counsel for the petitioners submitted that the petitioners are innocent persons and have not committed any offence as alleged by the prosecution. He further submitted that a false case has been foisted against the petitioners by the respondent police. Accordingly, he prayed to grant an order of pre-arrest bail to the petitioners.

5. The learned Government Advocate (Crl. Side) for the respondent police submitted that the victim has sustained simple injuries. The victim was admitted in the hospital on 02.05.2024 and got discharged from the hospital on 04.05.2024. He further submitted that there is no previous case pending against the petitioners. He prayed to dismiss the petition.

6. Heard on both sides. This Court has perused the records.

7. The case of the prosecution is that two identified and three unidentified persons assaulted the defacto complainant. One among them also verbally abused him.

8. Considering the fact that no previous case is pending against the petitioners and that the victim has been discharged from the hospital, this Court is of the view that the custodial interrogation of the petitioners may not be necessary in this case.



WEB COPY

8. Considering the above facts and circumstances of the case, the nature of the offence alleged to have committed by the petitioners, this Court is inclined to grant an order of pre-arrest bail to the petitioners subject to the following conditions.

(i) The petitioners shall be released on bail in the event of their arrest or in the event of their surrender before the **learned Judicial Magistrate -II, Salem** within a period of 15 days from today, on executing a bond for a sum of Rs.20,000/- (Rupees Twenty Thousand only) each, along with two sureties each for a like sum of Rs.20,000/- to the satisfaction of the learned **Judicial Magistrate -II, Salem;**

(ii) The petitioners shall appear and sign before the **respondent police, daily at 10.00 a.m,** until further orders;

(iii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Judicial Magistrate shall obtain a copy of any one of identity proofs to ensure their identity;

(iv) The petitioners shall make themselves available for interrogation by police as and when required;



Crl.O.P.No.11794 of 2024

(v) The petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer;

(vi) The petitioners shall not leave India without the prior permission of the Court; and

(vii) On breach of any of the aforementioned conditions, the learned Judicial Magistrate/Trial Court is entitled to pass appropriate orders against the petitioners in accordance with law as if the aforementioned conditions are imposed by themselves as laid down by the Hon'ble Supreme Court in **P.K.Shaji Vs. State of Kerala** [(2005) 13 SCC 283].

9. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated *supra*.

16.05.2024

Index : Yes/No

Internet : Yes/No

Neutral citation : Yes/No

ms/mk

Note:-

1. Registry is directed to forthwith upload this order in the official website of this Court.
2. All concerned to act on this order being uploaded in official website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.



WEB COPY



Crl.O.P.No.11794 of 2024

R.SAKTHIVEL, J.

ms/mk

To

1. The Judicial Magistrate No.II,
Salem.
2. DO THROUGH:
The Chief Judicial Magistrate, Salem.
3. The Public Prosecutor,
High Court, Madras.
4. The Inspector of Police,
Karuppur Police Station,
Salem City.

Crl.O.P.No.11794 of 2024

16.05.2024