

IN THE COURT OF THE PRINCIPAL SESSIONS JUDGE, THOOTHUKUDI

Present : Thiru V.Thangamariappan, M.A.,M.L.,

Principal Sessions Judge, Thoothukudi

Wednesday the 08th day of September 2021

Cr.M.P.No.3789/2021

1. M.Esakiraja (Age 24/21)

S/o. Mariappan,

7/33, Main Road,

Mudivaithanendal,

Thoothukudi District.

2. E.Muthuvel (Age 35/21)

S/o.Esakkimuthu,

11/151B1, Gnanaraj Nagar,

Mukuperi, Thoothukudi District.

...Petitioners/Accused

-Vs-

State : The Sub -Inspector of Police,

South P.S., Thoothukudi.

Crime No.633/ 2021

...Respondent/Complainant

Petition dated 31-08-2021 filed u/s.438 Cr.P.C. Praying to grant anticipatory bail to the petitioner.

This petition for grant anticipatory bail is filed by Thiru.I.Boonkumar, Advocate for the petitioner and both the submission made by the petitioner's side and the objection made by the learned Public Prosecutor are heard and this court made the following.

O R D E R

Heard both sides. Perused the petition.

The respondent police has registered the case as against the petitioners/accused for the offences u/s. 269, 294(b), 323, 506(i) IPC and u/s. 3 of Epidemic Disease Act The petitioners have moved this court for anticipatory bail u/s 438 Cr.P.C.

This case has been registered against petitioners for the offences u/s. 269, 294(b), 323, 506(i) IPC and u/s. 3 of Epidemic Disease Act The allegation against the petitioners is that on 22.8.2021 when the country in the Covid-19 Pandemic situation, the petitioners, who are the driver and conductor of the private bus, without wearing wearing mask, which is a disease protecting equipment of and thereby they acted as disease spreading manner and when it was questioned by the defacto complainant , both the accused abused him with filthy language and attacked him with hands and caused simple injuries to him and also made criminal intimidation against him and and therefore the case has been registered.

The learned counsel for the petitioner would submit that there are 2 accused persons in this case. These petitioners are A1 and A2. They are driver and conductor of the private bus. They have not committed any offence as alleged by the prosecution. While the defacto

complainant was travelling in the bus, there was only a wordy quarrel happened between them. There was no injured in this case and they have no previous case and the alleged occurrence is said to have taken place on 22.8.2021 and the F.I.R was registered only on 27.8.2021 with a delay of 5 days and hence the petitioners may be released on anticipatory bail.

The learned Public Prosecutor would submit that there are 2 accused persons in this case. These petitioners are A1 and A2. They are the driver and conductor of a private bus. The defacto complainant is acting as a social activities person. On 22.8.2021 at 8.30 a.m he boarded the bus, in which the accused are driver and conductor of the bus respectively, at that time, A1 raised high volume in the sound system of the bus, hence the defacto complainant requested him to reduce the sound, since the passengers were suffered by huge sound, but A1 did not reduce the sound, hence the defacto complainant informed the matter to the S.P., subsequently when the A2 approached the defacto complainant, to collect ticket, he was not wearing the mask, since it was a Covid-19 pandemic situation, hence the defacto complainant asked the A2, why he has not wearing mask, for which there was a wordy altercation happened between them and defacto complainant recorded all the incidents in his mobile phone and when the bus nearing Manickam Mahal, both the accused assaulted the defacto complainant with hands and snatched his mobile phone and compulsory pushed him out from bus and A2 told that he will give the mobile phone in the Muthiahpuram police station and subsequently on the next day they gave the mobile to the wife of the defacto complainant in the house of the defacto complainant and in the Covid-19 Pandemic situation, both the accused without wearing mask and working in the bus and he raised objections to release the petitioners on anticipatory bail. Further he submits that there is no previous case pending against these petitioners/accused.

Considering the facts that the alleged occurrence is said to have taken place on 22.8.2021 and the F.I.R was registered only on 27.8.2021 with a delay of 5 days and no injured in this case and there is no previous case pending against these petitioners/accused, this Court is inclined to grant anticipatory bail for the petitioners/ accused with the following conditions ;--

(a) That in the event of arrest or the petitioners/accused shall surrender themselves within 15 days from this date before the learned Judicial Magistrate No.I at Thoothukudi on their each executing a bond for Rs.10000/- with two sureties each for the likesum to the satisfaction of the above said learned Judicial Magistrate, they shall be released on anticipatory bail;

b) that the petitioners/accused shall report before the respondent police station, daily at 10.00 a.m for a period of one month from the date of their release ;

c) that the petitioners/accused should make themselves available for interrogation as and when required by the respondent police;

d) that the petitioners/accused 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.

e) that on breach of any of the aforesaid conditions, the learned Judicial Magistrate 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 himself as laid down by the Hon'ble Supreme Court in P.K.Shaji .vs. State of Kerala (2005 AIR SCW 5560).

Pronounced by me in the Open court this the 08th day of September 2021.

Sd/- V.Thangamariappan,
Principal Sessions Judge,
Thoothukudi.

To

- The Judicial Magistrate No.I, Thoothukudi.
- The Sub-Inspector of Police, South P.S., Thoothukudi.
- The Advocate for the Petitioner.

M.M