

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.9342 of 2019

1.Subha

2.A.Deivanai

3.S.Padmini

4.P.Anjalaidevi

5.S.Mahendiran

6.Amirthavalli ...Petitioners

Vs

1. The District Collector, Karaikal.

2. The Senior Superintendent of Police, Karaikal.

3. Union of India, Represented by its Secretary,
Ministry of Home Affairs,
(Department of Border Management,
Coastal Security Section), New Delhi.

4.The Deputy Secretary (Sri Lanka),
Ministry of External Affairs,
South Block, New Delhi.

...Respondents

Prayer: Criminal Original Petition filed Under Section 482 of the Code of Criminal Procedure, to direct the respondents to take steps to secure the following person namely (1) S.Kajendiran, S/o. Subramanian, aged 30 years, (2) S.Thamilmani, S/o. Subramanian, aged 31 years, (3) A.Jayaseelan, S/o. Azhaguraja, aged 20 years, (4) T.Ponnusamy, S/o.Thullukutty, aged 43 years (5) S.Bakiaraj, S/o. Subramanian, aged 20 years, (6) S.Arul S/o. Sekar aged 22 years, all are having their residence at Karaikalmedu, Karaikal, Puducherry, who are currently at Yaazhpaanam Prison at SriLanka by providing bail guarantee through Indian High Commission of Ceylon.

For Petitioners : M/s.A. Tamilvanan

For Respondents 1 and 2 : Mr.V.Balamurugan

Additional Public Prosecutor,
Pondicherry.

For Respondent - 3 : Mr.S.S.Pazhaniraja
Central Government Standing
Counsel

O R D E R

This Criminal Original Petition has been filed by the petitioners seek a direction directing the respondents to take steps to secure the following persons viz., (1) S.Kajendiran, S/o. Subramanian, aged 30 years, (2) S.Thamilmani, S/o. Subramanian, aged 31 years, (3) A.Jayaseelan, S/o. Azhaguraja, aged 20 years, (4) T.Ponnusamy, S/o.Thullukutty, aged 43 years (5) S.Bakiaraj, S/o. Subramanian, aged 20 years, (6) S.Arul S/o. Sekar aged 22 years, all are having their residence at Karaikalmedu, Karaikal, Puducherry, who are currently at Yaazhpaanam Prison at Sri Lanka by providing bail guarantee through Indian High Commission of Ceylon.

Sl.No.	Rank of the petitioners	Relationship	Person in person
1.	First Petitioner	Husband	S.Kajendiran
2.	Second Petitioner	Son	S.Thamilmani
3.	Third Petitioner	Son	A.Jayaseelan
4.	Fourth Petitioner	Son	T.Ponnusamy
5.	Fifth Petitioner	Brother	S.Bakiaraj
6.	Sixth Petitioner	Son	S.Arul

2. The learned counsel appearing for the petitioner submitted that the above six fishermen left the Karaikal shores for fishing on 31.03.2017 in South East Kodiyakkarai in the fiber boat viz., "Renukadevi Amman" belonging to the husband of the first petitioner while fishing they were arrested by the Sri Lankan Navy on the charges of possession of Narcotic Substance on 01.04.2017 and were detained Yaazhpanam Prison in Sri Lanka, for the alleged offence under Section 54(a)(b) of the Poison, Opium and other Dangerous Drugs Act. Thereafter, they filed a bail petition before the Court of Northern Territory, Jaffna in Case Nos.1182 to 1187 of 2018, and the same was granted on 11.09.2018. He further submitted that, while granting bail petition, the Court was pleased to record its findings regarding

in the manner of arrest, the delaying in producing the accused before the Court, this seizure of Narcotic Substances, variation of the quantity and lapse of progress in the case, even after a lapse of 18 months, considering all the above said aspects, the bail was granted to the aforesaid persons. He further submitted that the bail conditions would be imposed without the help of the respondents and the Indian High Commission in Ceylon. The petitioners are poor fishermen and they are not in a position to personally appeal the respondents for the release of the said persons. Hence, the petitioners made several representations through the respondents in written but till date the respondents have either not shown any interest or took any steps to release the said persons by offering bail guarantors. Therefore, with no other option present Crl.O.P. to take steps to offer guarantee for bail and get the said persons release from Yaazhpanam Prison at Sri Lanka. There is no previous cases of such kind either in India or any other country as against the above six fishermen and inspite of the bail been granted they have been starving in Prison merely because of the inaction on the part of the respondents. Hence, the petitioners prayed for allowing this petition.

3.The learned Additional Public Prosecutor, Pondicherry, submitted that there are specific allegations as against the petitioners on charges of possession of 13.5 kgs of narcotic substance, believed to be heroin under Section 54 (a) (b) of the Poison, Opium and other Dangerous Drugs Act. All the six fishermen were provided consular access on 02.04.2017, during which the main accused admitted his guilt before the Jaffna Consulate Officials. However, subsequently, during a hearing at Mallakam (Jaffna) Magistrate Court on 21.04.2017 all the six accused pleaded innocence saying that they were framed by Sri Lankan fishermen.

4. Heard Mr.V.Balamurugan, learned Additional Public Prosecutor, Pondicherry, for the respondents 1 and 2 and learned Mr.S.S.Pazhaniraja, Central Government Standing Counsel for the 3rd respondent and perused the materials available on record.

5. Without going into the merits of the case, the petitioners are directed to furnish a copy of the representation dated 12.11.2018 submitted by the petitioners along with this order copy to the third respondent/Secretary, Ministry of Home Affairs, New Delhi, within a period of two weeks from the date of receipt of a copy of this order. After receipt of the representation from the petitioners, the third respondent/Secretary, Ministry of Home Affairs, New Delhi, is directed to consider the petitioners' representation dated 12.11.2018 and pass appropriate orders on merits and in

accordance with law within a period of eight weeks from the date of receipt of the petitioners' representation.

6. With the above directions, the Criminal Original Petition is disposed of.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The District Collector, Karaikal.
 2. The Senior Superintendent of Police, Karaikal.
 3. The Secretary, Union of India
Ministry of Home Affairs,
(Department of Border Management,
Coastal Security Section), New Delhi.
 4. The Deputy Secretary (Sri Lanka),
Ministry of External Affairs, South Block, New Delhi.
 5. The Public Prosecutor, High Court, Madras.
- +1 CC to Mr.V.Balamurugan, advocate sr 37979.
+1 CC to Mr.S.S.Pazhaniraja, advocate sr 37241.
+1 CC to Mr.A.Tamilavanan, Advocate sr 36989

Cr1.O.P.No.9342 of 2019

BS (CO)
SP (07/06/2019)

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