

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
[THROUGH VIDEO CONFERENCING]

RESERVED ON : 08.08.2019  
DELIVERED ON : 19.08.2019

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN  
AND  
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.19533 of 2019

P.V.Ravi ... Petitioner/Accused Rank not known

Vs.

The State represented by  
The Inspector of Police,  
District Crime Branch,  
Dharmapuri District.  
[Crime No.1 of 2018]

... Respondent/ Complainant

Prayer : Petition filed under Section 439 of the Code of Criminal Procedure, seeking to enlarge the petitioner on bail in Cr.No.1 of 2018 pending investigation on the file of the respondent police.

For Petitioner : Mr.N.L.Rajah,  
Senior Counsel  
for Mr.Arun Anbumani

For Respondent: Mr.C.Iyyapparaj  
Additional Public Prosecutor

For Intervenor : Mr.A.Ilaya Perumal  
for Defacto Complainant/Intervenor

ORDER

M.SATHYANARAYANAN, J.

The petitioner is arrayed as A.3 in Cr.No.1 of 2018 on the file of the respondent and he was arrested on 20.07.2019 during night hours for the alleged commission of the offences under Sections 120(B), 420, 465, 468 and 471 I.P.C. and he was ordered to be remanded to judicial custody by the Court of Judicial Magistrate No.II, Dharmapuri and at present, he is lodged at Central Prison, Salem.

2. A perusal of the F.I.R., in Cr.No.1 of 2018 registered by the respondent on the basis of the complaint given by the defacto complainant would disclose the following facts:

2.1. The defacto complainant/intervenor in the complaint lodged to the respondent would state among other things that the agricultural lands admeasuring to an extent of 25 acres are situated in Adhiyamankottai Village in S.No.867/2 and originally, it belongs to his father-in-law and his brother and after the demise of his brother, his father-in-law became the absolute owner of the said property. The father-in-law of the defacto complainant died and thereafter, his mother, namely, T.S.Varadhammal had succeeded to the said estate and vide registered sale deed dated 08.07.2008, had sold the said property in favour of the defacto complainant/intervenor and also put him in possession and he claims to be in possession from 08.07.2008 onwards. Nagaraj (A.1), son of Narayanan, fabricated a patta in respect of 8.16 acres of the land in the said Survey Number and appropriate proceedings were taken to cancel the patta and it was also cancelled during the year 2018. The defacto complainant also filed a suit in O.S.No.71 of 2010, in which, Nagaraj was arrayed as the fourth defendant with regard to the said property and it was decreed and therefore, Nagaraj (A.1) is nothing to do with the above said properties in S.No.867/2 of Adhiyamankottai Village.

2.2. It is the specific case of the defacto complainant/intervenor that the petitioner herein, namely, P.V.Ravi (A.3), Advocate, conspired with one Rajendran (A.2) and created the documents as if Nagaraj (A.1) during the year 2004 had availed loan from Rajendran (A.2) and said to have given the above said property as a security and the petitioner has played a major role in that regard. It is further stated that the defacto complainant/intervenor that the petitioner herein is appearing as a lawyer for Nagaraj (A.1) right from 2004 and knowing pretty well that Nagaraj (A.1) did not possess any right, title or documents in respect of the said property, aided and abetted him to commit the criminal offence. The petitioner (A.3), Nagaraj (A.1) and Rajendran (A.2) conspired together and initiated arbitration proceedings, in which, one K.Rajaram - Advocate, was appointed as Arbitrator and created a fake arbitration award and the proceedings relating to it were conducted in a hotel at Egmore, Chennai. The defacto complainant/intervenor also pointed out that K.Rajaram - alleged Arbitrator has done similar kinds of illegal activities and therefore, he was temporarily barred from practice for two years, vide order passed by the Disciplinary Committee of the Bar Council of Tamil Nadu and Puducherry and despite that K.Rajaram - alleged Arbitrator continues to indulge in illegal activities. Rajendran (A.2) with the aid of fake Arbitrator filed R.E.P.No.36 of 2016 in AR.O.P.No.36 of 2014 on the file of

the Principal District Judge, Dharmapuri, for execution of sale deed in his favour and managed to get a positive order. For all the said illegal acts, the petitioner, as a lawyer, has played a major role. The Execution Petition was filed by none other than the junior of the petitioner herein, namely, P.K.Muthusamy and pendency of the alleged arbitration proceedings, the alleged Arbitrator passed an interim award dated 09.08.2014 and challenging the same, O.P.No.688 of 2014 was filed before this Court, in which, T.Arul, Advocate, appeared for the parties and subsequently, it was dismissed as infructuous in the light of the passing of alleged final award.

2.3. In sum and substance, it is the case of the defacto complainant/intervenor that the petitioner who is the Senior Member and also Former President of Dharmapuri Bar Association, knowing pretty well that his client, Nagaraj (A.1) do not have any right, title or possession in respect of the said property, aided, abetted and conspired with him and other accused and created the documents which enabled Rajendran (A.2) to get fake arbitration award and Execution Petition was filed and the learned Principal District Judge, Dharmapuri, without due and proper application of mind, passed an order for execution of a sale deed and it was also executed and registered despite the fact that the ownership of the property vests with the defacto complainant pursuant to the registered sale deed dated 08.07.2008, executed by the mother of his father-in-law.

2.4. The defacto complainant alleging lapses and deliberate inaction on the part of the respondent in not conducting proper investigation, moved this Court by filing CrI.O.P.No.15781 of 2018 before the Principal Seat of this Court praying for transfer of investigation. A Single Bench of this Court (P.N.PRAKASH, J.), after going through the materials, noted with anguish that in view of the gargantuan nature of the fraud, thought it fit to put an end to the pernicious malpractice and also had taken note of the arrest of A.1 and therefore, directed the Superintendent of Police, Dharmapuri District, to monitor the investigation in respect of Cr.No.1 of 2018 and take effective steps to nab those who involved in the racket and directed the listing of the matter on 01.08.2018 and accordingly, the said Criminal Original Petition was listed on 01.08.2018 and the learned Judge after hearing the submissions of the learned Senior Counsel appearing for the Bar Council of Tamil Nadu and Puducherry, opined that given the gargantuan nature of fraud involved, a Special Division Bench requires to be constituted to deal with such cases and accordingly, directed the Registrar (Judicial) to place this matter before the Honourable the Chief Justice for constituting a Special Division Bench to deal with cases of Kangaroo Tribunals in Tamil Nadu in order to curb such pernicious activities. Accordingly, the said

Criminal Original Petition has been listed before the Special Division Bench (M.SATHYANARAYANAN.J., and M.NIRMAL KUMAR,J.).

2.5. Accordingly, Crl.O.P.No.15781 of 2018 along with connected matters were listed before us on 16.07.2019 and it was directed to be called on 30.07.2019 through Video Conferencing since one of us (M.SATHYANARAYANAN,J.) is at Madurai, for filing status report and counter affidavits with supporting documents.

2.6. In the interregnum, the petitioner herein/A.3 was arrested and he filed the present Criminal Original Petition in Crl.O.P.No.19533 of 2019 for bail.

3. Mr.N.L.Rajah, learned Senior Counsel assisted by Mr.Arun Anbumani, learned Counsel for the petitioner/A.3 made the following submissions:

It is an admitted fact that the petitioner/A.3 is appearing and rather discharging his professional duties as a lawyer for Nagaraj/A.1, but it does not mean that he has conspired or aided or abetted the alleged illegal activities of Nagaraj/A.1, which include the alleged fake arbitration award in AR.O.P.No.36 of 2014, dated 31.10.2014. The petitioner/A.3 had fully co-operated with the respondent and appeared very many times and as such, the custodial interrogation is not at all required. As per the request made by the Investigating Agency - the respondent herein, police custody was granted for them for a period of one day and the petitioner herein did not give any statement. The petitioner has undergone a kidney transplantation surgery about several years ago and he is advised to take constant medication and that apart, he is also having several other health issues and on account of his incarceration for nearly two weeks, his health is getting deteriorated. The allegation that his junior had appeared in the execution proceedings for execution of the arbitration award and as such, the petitioner/A.3 has also played his role, is nothing but a figment of imagination, but as a lawyer, one is expected to adhere to the professional standards and ethics and discharge their duties and the petitioner being a Senior Member of Dharmapuri Bar Association has exactly done that and he cannot be attributed with such a kind of vicious and malicious conduct by the defacto complainant/intervenor.

4. In sum and substance, it is the submission of the learned Senior Counsel appearing for the petitioner/A.3 that the petitioner/A.3 merely discharged his professional duties and though the defacto complainant/intervenor in support of his petition for intervention, filed voluminous documents, which include the pending civil proceedings under the garb of intervenor, he is not expected to get any advice in this present proceedings and it is also open to the Investigating Agency to look into the materials to find out whether any tenable and

qualitative materials are available to charge sheet the accused which include the petitioner herein/A.3 also.

5. The learned Senior Counsel appearing for the petitioner herein/A.3 also undertakes that the petitioner herein in the event of enlargement on bail, is willing to abide by any condition imposed by this Court and will not interfere either directly or indirectly with the investigation and also will not flee from the arms of justice.

6. It is also brought to the knowledge of this Court by the learned Senior Counsel appearing for the petitioner herein/A.3 that the petitioner herein/A.3 is also facing disciplinary proceedings at the hands of the Bar Council of Tamil Nadu and Puducherry.

7. Mr.C.Iyyapparaj, learned Additional Public Prosecutor appearing for the respondent would submit that since local members of Bar are involved, the respondent - Investigating Agency was not in a position to effectively carry out the investigation and taking note of the same, this Division Bench, vide order dated 16.07.2019 made in Crl.O.P.No.15781 of 2018, etc., has directed the Additional Director General of Police, Law and Order, Chennai, to personally monitor the present case and further directs that in future, the said official shall file status report with regard to the progress of the case and after the said order, some progress is being made in the investigation which also resulted in the arrest of A.2 and A.3.

8. It is the further submission of the learned Additional Public Prosecutor appearing for the respondent/State that the police custody of the petitioner herein/A.3 was granted by the learned Judicial Magistrate No.II, Dharmapuri, from 31.07.2019 at 04.00 p.m., till 01.08.2019 at 04.00 p.m., and while he was taken for interrogation in police custody, a group of lawyers followed and remained within the campus and taking advantage of their presence, the petitioner herein/A.3 did not co-operate and he has also withdrawn himself from co-operating the Investigating Agency and therefore, he was produced before the learned Judicial Magistrate No.II, Dharmapuri on 31.07.2019 at 08.00 p.m., and he was remanded to judicial custody.

9. It is the further submission of the learned Additional Public Prosecutor appearing for the State that Rajendran/A.2 was also arrested on 06.08.2019 at 04.30 a.m., and investigation is on a crucial stage and strongly opposed this petition for bail.

10. The learned Counsel for the defacto complainant/intervenor has invited the attention of this Court to the affidavit filed in support of the petition to intervene

as well as the voluminous typed set of documents running to 543 pages and would submit that in all legal proceedings in which the prime accused - Nagaraj/A.1 was a party, the petitioner herein/A.3 appeared as a lawyer and despite an obligation and duty is cast upon him as a Member belongs to noble profession, he has failed to discharge his duties properly and gone to the extent of colluding with the prime accused which enabled A.1 and A.2 to get a fake arbitration award, dated 31.10.2014 in AR.O.P.No.36 of 2014, based on which, one of his juniors, namely, P.K.Muthusamy has filed R.E.P.No.36 of 2016 on the file of the learned Principal District Judge, Dharmapuri and got an order for execution of the sale deed in respect of the property admeasuring to an extent of 3.30.5 Hectares in S.Nos.867/2 and 867/2B at Adhiyamankottai Revenue Village, along with superstructures and 4 bore wells and electricity service connection and two tanks and one more electricity service connection and pump set and thereby, made the defacto complainant/intervenor to run from pillar to post to get the said illegalities set at naught and in that process, precious time and valuable money are being spent and it also added mental agony and would further result in grave hardships and financial loss.

11. The learned Counsel for the defacto complainant/intervenor invited the attention of this Court to the voluminous typed set of documents and pointed out that the petitioner herein/A.3 had gone to the extent of filing a Memo by getting a wrong S.R. Number so as to enable the prime accused - Nagaraj/A.1 to get an order exempting from surrender and consequently, suspension of sentence in CrI.R.C.No.28 of 2016 pending on the file of this Court and it is an admitted fact that Nagaraj/A.1 did not comply with the said conditions also and neither the respondent/Investigating Agency nor the jurisdictional Magistrate Court had taken cognizance of the same and in the present case, though he was arrested, was enlarged on default bail with the connivance of the respondent herein and would pray for the dismissal of this petition for bail and also transfer of investigation to C.B.C.I.D., and further prayed for cancellation of the sale deed executed by the Court in favour of Rajendran/A.2 which pertains to his property as the said sale deed came to be executed pursuant to the above cited fake arbitration award.

12. In response to the said submission, the learned Senior Counsel appearing for the petitioner herein/A.3 would submit that with regard to the wrong S.R.Number given, perjury proceedings are initiated and also ended in dismissal and as such, the submission made by the learned Counsel for the defacto complainant/intervenor lacks merit and substance and reiterated that in the light of the fact that the petitioner herein/A.3 is

in incarceration for two weeks and that the period of police custody is also over and further taking into consideration his health conditions, prays for his enlargement on bail subject to any condition being imposed in that regard.

13. This Court has carefully considered the rival submissions and also perused the materials placed on record.

14. In *Niranjan Singh v. Prabhakar Rajaram Kharote* reported in (1980) 5 Supreme Court Cases 559 : 1980 Supreme Court Cases (Cri) 508 : AIR 1980 SC 785, it is observed that "The Court while considering an application for bail, shall avoid detailed discussion of the evidence and elaborate documentation of the merits and the said requirement is for the reason that the party/accused concerned shall not have an impression that his case has been pre-judged. What is required while considering the application for bail is the existence of a prima facie case and elaborate analysis or exhaustive consideration on the merits of the matter is not required."

15. In *State of Maharashtra v. Anand Chintaman Dighe* reported in (1990) 1 Supreme Court Cases 397 and *State v. Surendranath Mohanty* reported in (1990) 3 OCR 462, it is observed that "Where the offence is of serious nature the question of grant of bail has to be decided keeping in view the nature and seriousness of the offence, character of the evidence and amongst others the larger interest of the public."

16. In *Gurcharan Singh and others v. State* reported in AIR 1978 SC 179, it is observed that "While considering petition for grant of bail in non-bailable offence, two paramount considerations are required, apart from the seriousness of the offence, i.e., the likelihood of the accused fleeing from justice and tampering of the witnesses and the said considerations relate to ensure the fair trial of the case."

17. It is also well settled position of law that granting of bail is a matter of discretion and there is no standard norms as to the grant of bail and it depends upon each case by taking into consideration the seriousness and gravity of the offences and the likelihood of fleeing from the arms of justice and tampering with the witnesses and evidence.

18. This Court keeping in mind the principles enunciated in the catena of decisions rendered by the Honourable Supreme Court has carefully scanned the materials and considered the rival submissions.

19. It is not in serious dispute that if the petitioner herein/A.3 as a lawyer had appeared for the prime accused - Nagaraj/A.1 in series of litigations. The issue whether he has given sane and appropriate advice to his client in conformity with his professional ethics is a matter to be decided by the Bar Council of Tamil Nadu and Puducherry where he is facing disciplinary proceedings.

20. The learned Counsel for the defacto complainant/intervenor had invited the attention of this Court to the voluminous typed set of documents filed in support of the petition to intervene and made a forceful and vehement submission that the petitioner herein/A.3 being a Senior Member and also Former President of Dharmapuri Bar Association, miserably failed to discharge his professional duty as a lawyer in a fair and proper manner and thereby, violated the ethics and higher standards expected on a lawyer.

21. In fact, the learned Counsel for the defacto complainant/intervenor technically wants this Court to record some findings on the documents submitted in support of the petition for intervening. However, this Court, for the present, is not inclined to go into the merits or otherwise of the said documents for the reason that the investigation is in a crucial stage and any finding given by this Court by scrutinising and analysing the documents may affect the course of investigation and of course, it is always open to the respondent/Investigating Agency to take cognizance of the said documents for the purpose of investigating and arriving at a decision to charge the accused or not.

22. The petitioner herein/A.3 also pleads for bail on account of medical grounds for which, no supporting documents have been filed. It is also brought to the knowledge of this Court that immediately after the arrest of the petitioner herein/A.3, local Bar went on boycott and such a kind of pressurizing tactics is deprecated by this Court. It has also become a regular feature that whenever a lawyer is arrested for commission of cognizable offence, they resort to boycott, dharna and road roko overlooking the fact that they are also like any other citizen and they have to recourse to due process of law and simply because, they are lawyers, they cannot bypass the remedies available to them and resorting to pressurizing and other tactics.

23. The lawyers by resorting to boycott and other tactics had forgotten their solemn and noble duty towards litigants and this Court hope and trust that in future, such a kind of tactics or methods will not be adopted.

24. Now, coming to the case on hand, the petitioner herein/A.3 is in incarceration for nearly two weeks and further that the period of police custody is also over and though it is submitted by the prosecution that he did not co-operate with the Investigating Agency taking advantage of the situation that very many lawyers assembled in the campus where the Office of the Investigating Agency is located, this Court has also taken note of the submission made by the learned Senior Counsel appearing for the petitioner herein/A.3 that in the event of his enlargement on bail, he will fully co-operate with the Investigating Agency and he will not resort to any pressurizing and dilatory tactics and further that he will not flee from the arms of justice and tamper the witnesses or evidence.

25. In the result, this Criminal Original Petition is ordered granting bail to the petitioner herein/A.3 concerning in Cr.No.1 of 2018 on the file of the respondent subject to the following conditions:

(i) The petitioner herein/A.3 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 Judicial Magistrate No.II, Dharmapuri;

(ii) The petitioner herein/A.3, after his enlargement on bail, shall stay at Chennai and report before the Inspector of Police, Flower Bazaar Police Station, daily at 11.00 a.m., until further orders, except on the dates where he is required to be present before the respondent/Investigating Agency for the purpose of investigation;

(iii) The petitioner herein/A.3 shall not leave the Corporation limits of Chennai pendency of the investigation without getting orders from this Court and shall not hamper with the investigation and tamper with the evidence and witnesses and shall not flee from the arms of justice; and

(iv) In the event of the petitioner herein/A.3 violates any one of the aforesaid conditions, immediate and necessary steps have to be taken by the respondent/Investigating Agency to secure his custody in terms of the directions of the Honourable Supreme Court in P.K.Shaji v. State of Kerala reported in (2005) AIR SCW 5560.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

rsb

- (1)The Principal District and Sessions Judge,  
Dharmapuri.
- (2)The Chief Judicial Magistrate,  
Dharmapuri.
- (3)The Judicial Magistrate No.II,  
Dharmapuri.
- (4)The Additional Director General  
of Police, Law and Order,  
Office of Director General of  
Police, Dr.Radhakrishnan Salai,  
Mylapore, Chennai - 600 004.
- (5)The Inspector of Police,  
Flower Bazaar Police Station,  
Chennai.
- (6)The Secretary,  
Bar Council of Tamil Nadu and Puducherry,  
Chennai - 1.
- (7)The Inspector of Police,  
District Crime Branch,  
Dharmapuri District.
- (8)The Superintendent,  
Central Prison, Salem.
- (9)The Former President & Senior Member,  
Dharmapuri Bar Associate, Dharmapuri.
- (10)The Superintendent of Police, Dharmapuri.
- (11)The Public Prosecutor,  
High court, Madras.
- (12)The Section Officer,  
Criminal Section,  
High Court, Madras.

+1cc to Mr. A.Ilaya Perumal, Advocate, S.R.No. 17203  
+2cc to Mr.Arun Anbumani, Advocate, S.R.No. 17194

PRE-DELIVERY ORDER MADE IN  
Cr1.O.P.No.19533 of 2019  
[THROUGH VIDEO CONFERENCING]

RV(CO)  
GN(19/08/2019)