

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.08.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.7559 of 2020

1.Negosh Fetiya Awel
2.Mohamed Zehara Kamal
3.Seydo Teybat Reshad
4.Seid Nekiya Hmza

... Petitioners

vs.

The State represented by,
The Inspector of Police,
Muthialpet Police Station,
Chennai.

... Respondent

Prayer : Criminal Original Petitions filed under Section 439 Cr.P.C. to enlarge the petitioners on bail in Crime No.78 of 2020, on the file of the Muthialpet Police Station, Chennai.

For Petitioners : Mr.K.M.Aasim Shehzad

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioners who were arrested and remanded to judicial custody on 07.04.2020 for the offences punishable under Sections 188, 269, 270, 271 of IPC read with Sections 3 of Epidemic Act, 1897 and Sections 134, 135 of Tamil Nadu Public Health Act, 1939 and Sections 13 & 14 of Foreigners Act, 1946 in Crime No.78 of 2020 on the file of the respondent police, seeks bail.

2 This Court had granted interim bail to the petitioners on 14.05.2020 and it was extended periodically.

3 When the matter is taken up for hearing, the learned Government Advocate (Crl.Side) would submit that the investigation in respect of Crime No.78 of 2020 has been completed and a final report has been filed before the learned XVI, Metropolitan Magistrate, George Town, Chennai, and the case has been taken up for hearing in C.C.No.677/2020, for the offences under Section 188, 269, 270, 271 IPC and Section 3 of Epidemic Diseases Act, 1897 and Section 134, 135 of Tamil Nadu Public Health Act, 1939 and Section 13 & 14 of Foreigners Act, 1946 and the case is posted to 07.09.2020.

4 At this juncture, the learned counsel appearing for the petitioners would submit that the petitioners are prepared to appear through video conference and they are also prepared to plead guilty. He would submit that bail may be made absolute in the present cases with a direction to the concerned Magistrates to take up the case in C.C.No.677 of 2020 at the earliest and complete the case at the earliest and that the petitioners are prepared to appear before the learned Magistrate either in person or through video conference or Whats App., so that, they can get back to their respective countries. He would submit that in a similar matter in respect of the petitioners belonging to Bangladesh, the case against them was taken up by learned II Metropolitan Magistrate, Egmore, in C.C.No.2227/2020 and the accused in that case pleaded guilty. The learned counsel would also further submit that in respect of foreign nationals who are accused and similarly placed as that of the petitioners, the Hon'ble Bombay High Court had taken a view that the petitioners have come to India only after obtaining proper travel permissions and the Hon'ble Bombay High Court had quashed the similar proceedings against them in Crl.W.P.No.548 of 2020, 554 of 2020 and 552 of 2020 by an order dated 21.08.2020.

4.1. The learned counsel appearing for the petitioners would further submit the cases of similarly placed accused came up before the Madurai Bench of this Court in Crl.O.P.Nos.5769, 6018 & 6103 of 2020 and this Court had issued a direction that if the petitioners shall execute appropriate affidavits expressing their remorse for having violated the Visa conditions, the proceedings against them shall be concluded by filing final reports and the petitioners were also directed to coordinate with the respective embassy and arrange for their return to their respective nations and the Government Tamil Nadu and the Government of India will play the facilitating role. He would further submit that similar matters relating to Foreign Nationals registered in various other States came before the Hon'ble Supreme Court on 06.08.2020 and the Hon'ble Supreme Court had taken into consideration the submission made by the learned Solicitor General that if the petitioners /accused tender apology as envisaged in the orders in Crl.O.P.Nos.5769, 6018 & 6103 of 2020, passed by the Hon'ble Madras High Court in the concerned Criminal cases, they can be permitted to leave India, despite pendency of the cases but subject to such orders that may be passed by the concerned Courts. Further, the Hon'ble Supreme Court had also taken into consideration the option plea of bargaining and directed that all the related cases in New Delhi to be clubbed together with a direction to dispose of within a period of eight weeks from 06.08.2020. He would submit that similarly placed accused who are citizens of France, Belgium and Comoros, were also charge sheeted in C.C.No.154 of 2020, on the file of the learned Judicial Magistrate No.I, Mayiladuthurai, in which, the accused pleaded guilty and they were convicted and sentenced to the period already undergone and were fined to pay an amount of Rs.3,500/-. The accused have paid the fine and the period of sentence was set off and they also got permission from the Government to leave the country and that the concerned accused are awaiting for the orders of deportation from the Government.

4.2 The learned Counsel for the petitioners would submit that since final reports have been filed and the petitioners herein are prepared to file a petition seeking for early hearing and that the petitioners are also prepared to plead guilty so as to complete the case at the earliest and he would pray that similar directions may be issued to learned XVI Metropolitan Magistrate, George Town, Chennai, to take up the cases in C.C.No.677 of 2020 at the earliest and to pass appropriate orders.

5. Taking into consideration the final reports have been filed and the petitioners are prepared to plead guilty, the interim bail granted by this court on 14.05.2020 to the petitioners is made absolute. The petitioners are at liberty to file appropriate petition before the concerned Magistrate either in person or through Video conference or through Whats App so as to complete the trial at the earliest.

6. In the event of any petition being filed by the petitioners in C.C.No.677 of 2020, the same shall be taken up and considered by the learned XVI Metropolitan Magistrate, George Town, Chennai, in accordance with law as expeditiously as possible.

7. With the above observations, these Criminal Original Petitions are ordered.

-sd/-
31/08/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE PRINCIPAL SESSIONS JUDGE,
CHENNAI.

2 THE XVI METROPOLITAN MAGISTRATE,
GEORGE TOWN, CHENNAI.

3 THE OFFICER INCHARGE
SAIDAPET SUB-JAIL, CHENNAI

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

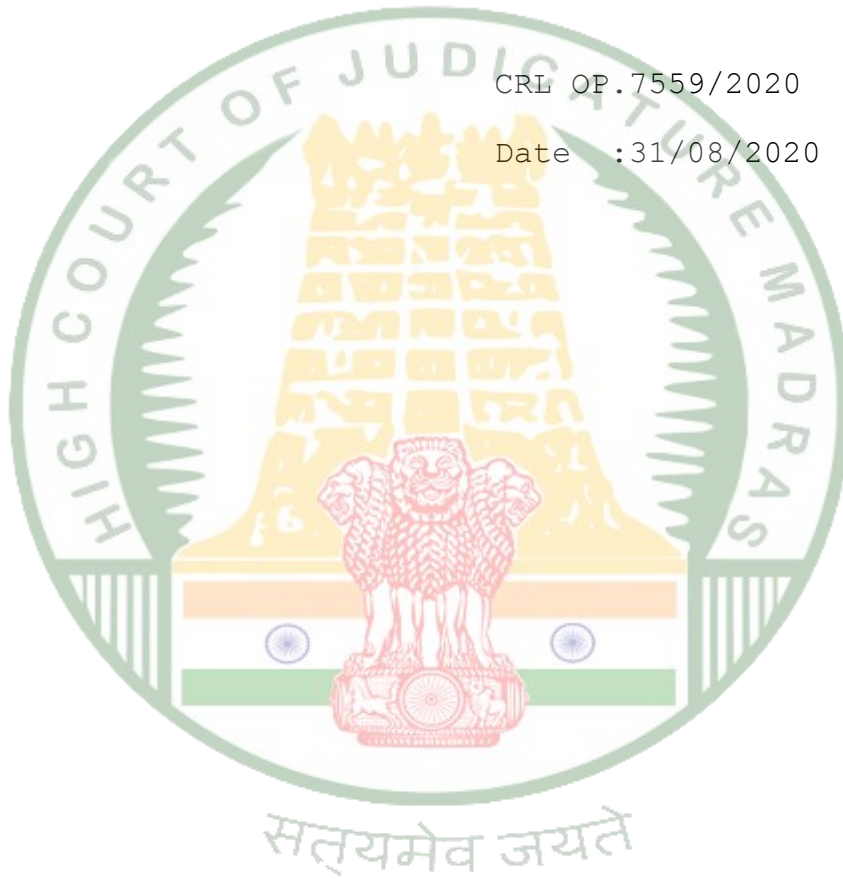
5 THE INSPECTOR OF POLICE
MUTHIALPET POLICE STATION
CHENNAI.

CC to M/S. K.M.AASIM SHEHZAD Advocate on payment of necessary
charges

CRL OP.7559/2020

Date :31/08/2020

cs 18/09/2020



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