

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.8235 of 2020

1. Kaja
2. Rahamath @ Rahamaghulla

...Petitioners

Vs.

The State rep. By
The Inspector of Police,
Bagayam Police Station
Vellore District
(Crime No.461 of 2020)

....Respondent

Prayer: Criminal Original Petition filed under Section 439 of Cr.P.C praying to enlarge the petitioners on bail in Crime No.461 of 2020 on the file of the respondent police.

For Petitioners : Mr. M.Sathish Kumar

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

The petitioners, who were arrested and remanded to judicial custody on 09.05.2020 for the alleged offences under Sections 341, 294(b), 323, 324 and 307 of IPC in Crime No.461 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the de-facto complainant had married one Muslim girl named Nagu before 16 years and in this regard, the petitioners and one Ranjith were unhappy. Further, on 09.04.2020, due to covid-19, the residential area at Mettuparai was blocked by fencing wooden logs and the same was forcibly removed by the 1st petitioner, for which the de-facto complainant along with the villagers had lodged a complaint against the 1st petitioner and handed him over to the police. Further, the petitioners had some grudge over it. Keeping this in mind, on 08.05.2020 at 9.30 p.m, when the de-facto complainant was returning home after buying beedi from the shop, the petitioners along with another accused had wrongfully restrained the de-facto complainant and abused him in filthy language and the 1st petitioner attacked the de-facto complainant with wooden log and the 2nd petitioner slapped the de-facto complainant on his cheek with hands and the 3rd accused attacked the de-facto complainant with knife on his head and shoulders. At that time, the de-facto complainant thwarted the same, he sustained

cut injuries on his head and hand. Thereafter, on seeing the people coming around the spot, the accused ran away from the scene of occurrence and thereafter, the defacto complainant was admitted in the hospital for treatment. Hence, the complaint.

3. The learned Counsel for appearing for the petitioners would submit that the de-facto complainant married a muslim woman, that is not the reason for the petitioner now to have grudge over it and assault the de-facto complainant. Further, in the complaint, the de-facto complainant has stated that the petitioners have assaulted him on his cheek with hands, attacked him with wooden log and other accused had attacked him with knife and caused cut injuries. He further submitted that since the petitioners questioned the fencing and blocking of the area and the place happened to be predominantly minority community people, for which the petitioners have been falsely implicated in this case. He further submitted that the petitioners have been in judicial custody from 09.05.2020 and hence, he prays for grant of bail to the petitioners.

4. The learned Additional Public Prosecutor submitted that the 1st petitioner is a history -sheetor have one previous case is pending against him in Crime No.383 of 2017 and the same was taken on file in PRC No.1 of 2020 for an offence under Section 302 of IPC. He further submitted that the petitioners herein by using religion had committed such offences and they wanted to control the area by way of muscle power. He further submitted that the victim has been treated as outpatient. Hence, he vehemently opposed for grant of bail to the petitioners.

5. Considering the facts and circumstances of the case ad according to the prosecution, the 1st petitioner had used wooden log and the 2nd petitioner had slapped the de-facto complainant on his cheek with hands, and also taking note of the fact that the victim has been treated as outpatient, and the petitioners have been in judicial custody from 09.05.2020, this Court is inclined to grant bail to the petitioners, subject to the following conditions:

a) the petitioners are ordered to be released on bail on executing their own bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the Superintendent of the concerned prison in which the petitioner has been confined on his release:-

b) the petitioners shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lockdown and commencement of regular functioning of Court below, failing which the bail granted by this Court shall stand dismissed.

[c] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[d] the petitioners shall report before the respondent police daily at 10.30 a.m for a period of three weeks and thereafter, as and when required for interrogation.

[e] the petitioners shall not commit any offences of similar nature;

[f] the petitioners shall not abscond either during investigation or trial.

[g] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[h] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court 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/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[i] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

With the above directions, this Criminal Original Petition is ordered.

-sd/-
11/06/2020

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 JUDICIAL MAGISTRATE NO.I, VELLORE,
VELLORE DISTRICT

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
BAGAYAM POLICE STATION,
VELLORE DISTRICT.

5 THE OFFICER INCHARGE,
GUDIYATHAM, VELLORE DISTRICT.

CC to M/S.M.SATHISHKUMAR Advocate on payment of necessary
charges

CRL OP.8235/2020

Date :11/06/2020

TA-23/09/2020



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