

IN THE HIGH COURT OF JUDICATURE AT MADRAS
 DATED: 10.06.2020
 CORAM
 THE HONOURABLE MR.JUSTICE **M. NIRMAL KUMAR**
Crl. O.P. No.8405 of 2020

1. Aravindhkumar (M/24)
 S/o. Madhu @ Madhupaiyan
2. Praveenkumar @ Premkumar (M/24)
 S/o. Thiyarajan
3. Anbazhagan (M/21)
 S/o. Ammasi
- ... Petitioners/A1 to A3

Vs.

The State Rep. by
 The Inspector of Police
 Nangavalli Police Station,
 Salem District.
 (Crime No 357/2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C, to enlarge the petitioner on bail concerned in Crime No.357 of 2020 pending on the file of the respondent police.

For Petitioners : Mr. M. Senthil Kumar

For Respondent : Mr. S. Karthikeyan,
 Additional Public Prosecutor

ORDER

The petitioners, who were arrested and remanded to judicial custody on **08.05.2020** for the offences punishable under Sections **147, 148, 294(b), 323, 307 and 506(ii) of IPC, in Crime No.357 of 2020** on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 07.05.2020 at about 02.00

p.m., a scuffle arose between the defacto complainant and the accused. Later they were separated and pacified by the elders. Subsequently, at about 04.00 p.m., when the defacto complainant along with his friend Anbazhagan was talking near the Village Temple, the petitioners and the other accused came and abused the defacto complainant with filthy words and attacked him with stone, hands and legs. While the defacto complainant's friend Anbazhagan intervened, he was also abused and attacked with iron rod and caused injuries. Hence the complaint was registered.

3. The learned Counsel appearing for the petitioners would submit that the defacto complainant along with his friend Anbazhagan abused with prohibitory words and attacked them. The defacto complainant belonging to upper caste and the petitioners are belonging to oppressed caste and hence the fight has taken serious terms and there was exchange of blows between both the groups and the petitioners group was also assaulted and injured. Therefore, they had filed a complaint in Crime No.356 of 2020 for the offences under Sections 147,148, 294(b), 323, 324, 427, 506(ii) IPC read with 3(1)(r), 3(1)(s) and 3(2)(ra) of Scheduled Caste/Scheduled Tribes Act and that they are not the cause for the injuries and damages of the property of the defacto complainant.

He would further submit that after taking treatment, the defacto complainant and his friends were discharge from the hospital. Hence, he prays for grant of bail to the petitioners.

4. The learned Additional Public Prosecutor (Crl. Side) would submit that due to the fight between two groups, communal clash had erupted and both the groups assaulted each other and caused damages. The petitioners group initially given a complaint which was registered in Crime No.356 of 2020 which is earlier to this present complaint. Further he would submit that uneasy cause prevailing in the locality and if the petitioners are released on bail further communal clash may erupt and hence he opposed for grant of bail to the petitioners.

5. Taking into consideration the nature of allegations against the petitioners in the FIR and also taking note of the fact that it is a counter case and considering the period of incarceration by the petitioners from 08.05.2020 and the fact that the victims have been discharged from the hospital, 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 Petitioners have been confined on their release;
- b) the petitioners shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the con-

cerned 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 automatically;

- c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;
- d) **the learned Additional Public Prosecutor states that if the petitioners are released on bail, it would aggravate uneasy cause in the village and hence, this Court impose further condition that the Petitioners shall stay at Salem District and report before the Salem Town Police Station every day at 10.30 a.m., for a period of two weeks till then they shall not to enter in to the village. Thereafter report before the respondent police 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 Judicial 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]; and
- i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

6. With the above direction, this Criminal Original Petition is ordered.

10.06.2020

To

1. The Judicial Magistrate No.1, Mettur, salem.
2. The Inspector of Police,
Nangavalli Police Station,
Salem District.
3. The Public Prosecutor,
High Court, Madras.
4. The Superintendent,
Central Prison, Salem.



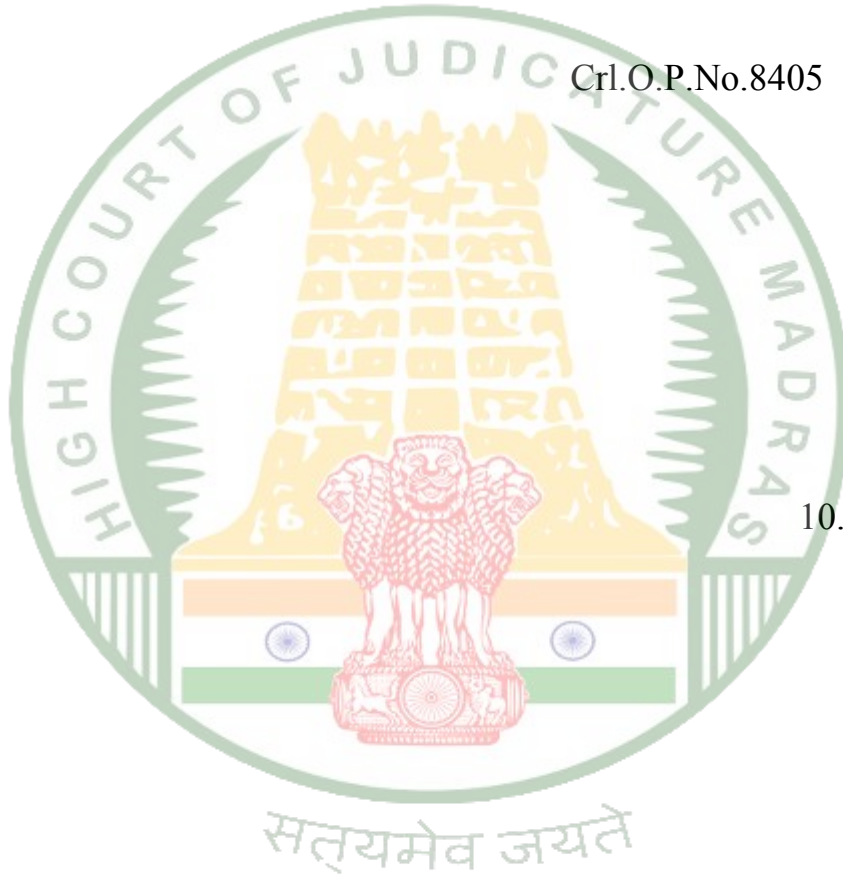
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M. NIRMAL KUMAR, J.

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