

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2020

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

CRL.O.P.No. 8655 of 2020

R.Vigneshkumar

... Petitioner

Vs.

The Inspector of Police,
K-4, Anna Nagar Police Station,
Anna Nagar, Chennai.
Crime No.378/2020

... Respondent

Prayer : Criminal Original Petition filed under Section 439 Cr.P.C., to enlarge the petitioner on bail, pending investigation in Crime No.378 of 2020 on the file of the Inspector of Police K-4, Anna Nagar Police Station, Chennai.

For Petitioner : Mr.K.Vijayaragavan

For Respondent : Mr.C.Iyyappa Raj

Additional Public Prosecutor

ORDER

The Petitioner who was arrested and remanded to judicial custody on 20.04.2020 for the offences punishable under Sections 147, 148, 294(b), 332, 324, 307, 506(ii), 269 IPC and Section 3(1) of TNPPDL Act, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant is working as Assistant Engineer, at Zone-8 of Greater Chennai City Corporation. On 20.04.2020 the defacto complainant along with other officers went to Velangadu Burial Ground, Chennai, at that time the petitioner along with other accused came to the Burial Ground and objected to bury the body of Dr.Simon, who died due to Covid-19. Further, the residents in the area came to the spot and attacked the defacto complainant and others with stones, weapons and wooden logs, as a result, the defacto complainant and others sustained serious injuries and they were obstructed from carrying on their duty, the Ambulance was damaged. Hence the complaint was registered.

3. The learned counsel for the petitioner would submit that the petitioner residing in the locality, on hearing people shouting in the street, out of anxiety, came and stood in the Verandah with his mother, at that time, there was heated arguments and protest of the local residents with regard to burying the body which was affected with Corona Virus. The local residents who are all uneducated and on apprehension that burying such body would cause disease to the local residents and other people would also be affected with Covid-19. The officials, using the police force, attacked and chased away the local residents. The body was not permitted by the local residents for burying in another cemetery, which added to the suspicion and caused doubts to the minds of the

residents and hence, they started objecting the burial of the body, which ended up in chaos and damage to vehicles. The petitioner is an Engineering College student and holding NCC grade certificate. He is also aspiring to get employment and upgrade himself and his family. The petitioner had never indulged in any of the offence as alleged in the complaint. The petitioner is aged about 20 years and due to above case his entire future and carrier have now become a question. The petitioner incarcerated for the past 58 days.

4. The learned Additional Public Prosecutor would submit that the Assistant Engineer, Greater Corporation of Chennai, has lodged a complaint stating that the municipal authorities and revenue authorities had gone to the Burial Ground at Velankadu and they were assaulted by the local residents and the ambulance vehicle in which the body was taken also damaged and they were not allowed to bury the body of Dr.Simon and not allowed to carry out their official functions. Despite the officials explained to the local residents about precautions taken in burying a Covid-19 affected corpse which will no way affect the environment or cause any disease to the local residents, the local residents were adamant and were showing militancy and they had attacked the officials' vehicle. Hence, the complaint had to be lodged.

5. It is seen that earlier to the burial at Velankadu Burial Ground, the Corporation officials took the body of Dr.Simon to the burial ground to Kilpauk Cemetery which is a specified place for burial of persons of Christian faith and there, the local residents objected and Corporation officials were prevented from burying the body and thereafter, they came to the Velankadu Burial Ground for burial of the body which has caused some doubt in the minds of the local residents. The corporation officials could have educated the people and avoided using force. Further, the refusal to allow burial at Kilpauk Cemetery had added to the suspicion in the minds of the local residents, which resulted in unpleasant situation and hence, the police had to use some force to disperse the crowd. Later the petitioner was taken into custody.

6. In view of the above and taking into consideration that the petitioner, who is an Engineering student, aspiring to upgrade himself educationally and socially, has been kept in confinement, this Court is inclined to grant bail to the Petitioner, subject to the following conditions:-

(a) the Petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the concerned prison, in which the Petitioner has been confined;

(b) the petitioner 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 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 Petitioner shall report before the Respondent Police as and when required for interrogation.

(e) the Petitioner shall not commit any offences of similar nature;

(f) the Petitioner shall not abscond either during investigation or trial;

(g) the Petitioner 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 Petitioner in accordance with law as if the conditions have been imposed and the Petitioner 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.

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

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16.06.2020

Internet: Yes/No

dna

M.NIRMAL KUMAR.,J.

To

1.The V Metropolitan Magistrate Court,
Egmore, Chennai.

2. The Inspector of Police,
K-4, Anna Nagar Police Station,
Anna Nagar,
Chennai.
Crime No.378/2020

3. The Public Prosecutor,
High Court, Madras.

Copy to

The Superintendent,
Central Prison, NH-5, Mahalakshmi Nagar, New Central Jail,
Puzhal, Chennai, Tamil Nadu-600 066.

Crl.O.P.No. 8655 of 2020

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