

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2020

CORAM

THE HONOURABLE MR.JUSTICE. **M.NIRMAL KUMAR**

Crl.O.P.No.8648 of 2020

1.A.Kumar
2.Maniyarasan

... Petitioners

Vs.

State Rep. by its
The Inspector of Police,
Thooskanampakkam Police Station,
Cuddalore Main Road,
Thooskanampakkam,
Cuddalore District.
(Crime No.34 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C, to enlarge the petitioners on bail relating to Crime No.34 of 2020 on the file of the Inspector of Police, Thooskanampakkam Police Station, Cuddalore District.

For Petitioners : Mr.N.U.Pressanna

For Respondent : Mr.S.Karthikeyan

Additional Public Prosecutor

ORDER

The petitioners were arrested and remanded to judicial custody on 15.04.2020 for the offence punishable under Sections 147, 148,294(b),323,324 and 506 (ii) of IPC which has subsequently been altered into Sec.147, 148, 294 (b), 323, 324, 506 (ii) and 302 of IPC, in Crime No.34 of 2020 on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 14.04.2020 at about 8.00 p.m, the de-facto complainant and his brother were standing near Bangaru Reddiyar Colony in Thookanampakkaam. While so, the petitioners along with other accused came there, picked up quarrel with them, and scolded in a filthy language and also assaulted them by using wooden log. Therefore, the de-facto complainant and his brother sustained serious injury on the head and all over the body and they were admitted in Cuddalore Government Hospital. Later the de-facto complainant's brother died on 17.04.2020.

3. The learned counsel appearing for the petitioners submitted that the de-facto complainant and his brother had quarrel with the petitioners, for which the petitioners had lodged a complaint in Cr.No.35 of 2020. He further submitted that there was a dispute between the petitioners and the de-facto complainant and his brother with regard to local body election. Pursuant to the same, the de-facto complainant and his brother picked up quarrel with the petitioners. He further submitted that as per the complaint, the petitioners assaulted the de-facto complainant and his brother only with hands and no weapons were used by them and also there is no specific overt act attributed by the petitioners.

4. The learned Additional Public Prosecutor would submit that there is a case and counter in Crime No.35 of 2020. He further submitted that the major part of the investigation was completed.

5. Taking into consideration of the fact that there existed a dispute between the petitioners and the defacto complainant and his brother and there is a case and counter in Cr.No.35 of 2020 and also the period of incarceration of the petitioner, which is more than 58 days, this Court is inclined to grant bail to the petitioner, subject to the following conditions :

(a) the petitioners shall deposit a sum of Rs.5,000/- (Rupees five thousand only) each to the Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai-600 020 (Bank:Andhra Bank, Madhya Kailash, SB A/c.No.149710011005477) and on such deposit 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) 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 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 petitioners shall 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]*;

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

12.06.2020

Index : Yes/No

Internet : Yes/No

Speaking order/Non-speaking order

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To

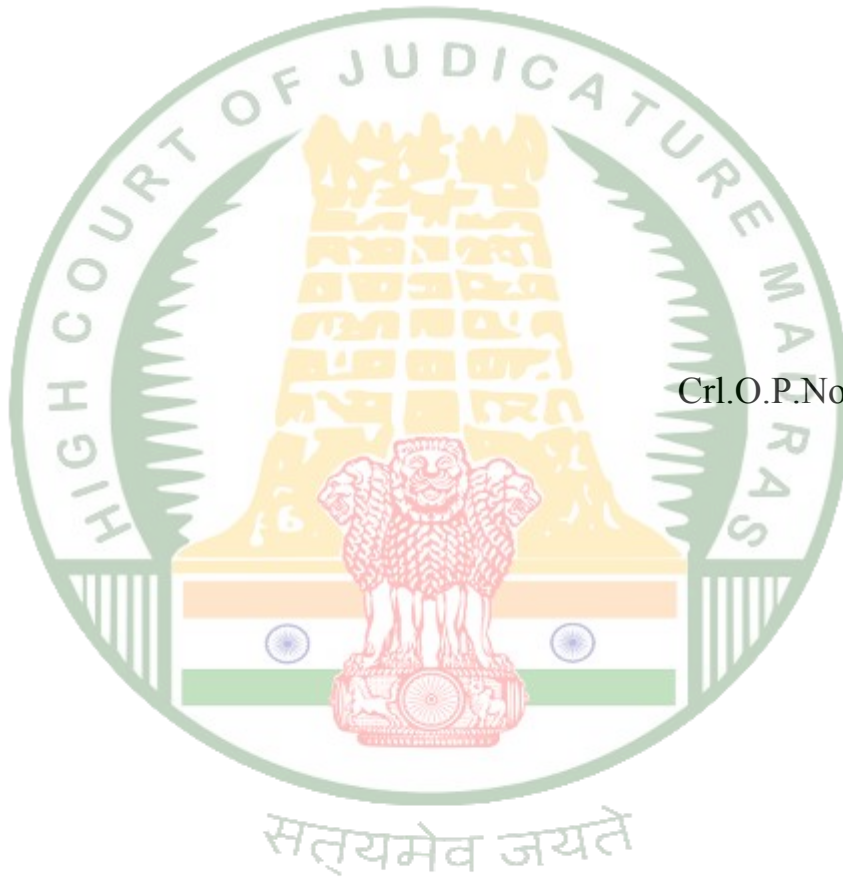
1. The Judicial Magistrate – I,
Cuddalore.
2. The Superintendent,
Central Prison, Cuddalore.
3. The Inspector of Police,
Thookanampakkam Police Station,
Cuddalore.
4. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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