

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2020

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.8790 of 2020

1. Thendral Selvaraj
2. C.Keerthi Anand
3. A.Durai

... Petitioners

/Vs/

The State of Tamil Nadu Rep by
The Inspector of Police,
Aliyar Police Station,
Pollachi.
(Crime No.158 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under section 439 of Cr.P.C., to enlarge the petitioners on bail pending investigation in Crime No.158 of 2020 on the file of the Respondent Police.

For Petitioners : Mr.E.Raj Thilak

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

* * * * *

ORDER

The petitioners were arrested and remanded to judicial custody on 02.06.2020, for the offences punishable under Sections 143, 224, 225B, 271, 283, 294(b), 341, 353, 506(2) of IPC and Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 in Crime No.158 of 2020, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the Inspector of Police, Kinathukadavu Police Station in pursuant to his investigation in Crime No.946 of 2020 for the offences under Sections 153 & 505(i)(b) of IPC got information that one of the accused namely C.Keerthi Anand who is the P.A of one Thendral Selvaraj of DMK, District Secretary, was hiding himself in Valparai along with a party on 13.05.2020 had proceeded there and the informer had identified the said C.Keerthi Anand who was available nearby Valparai Bus stand. Thereafter, the said C.Keerthi Anand was arrested and was taken in the police bolero jeep and this information was also informed to Valparai Police Station. Thereafter, on the way back the accused they converged there when the police bolero jeep was near Aliyar Forest Check Post and squatted on the road not

allowing the defacto complainant's vehicle to proceed further. The defacto complainant got out from the vehicle and found that the persons there were DMK Political Party persons interfered with the petitioners, to perform his duty as public servant, taking the accused persons in a case to produce before the Court for remand and further violating 144 proceedings and the guidelines issued by the Government of Tamil Nadu and these people had assembled there. The defacto complainant had informed that the persons by their act are interfering with the duty of the public servant and the persons therein were raising slogans and used abusive and threatening words against the petitioners and his party. The arrested accused C.Keerthi Anand from the vehicle seeing the vehicle crowded shouted to save him. The police bolero jeep was surrounded and damaged. At that time, a Maruthi Omni Van passed by the vehicle was stopped and the accused C.Keerthi Anand was shifted to the Maruti Omni Van. The persons therein led by Thendral Selvaraj rescued the accused C.Keerthi Anand and sent him away in a Maruthi Alto Car. Thereafter the defacto complainant lodged a complaint.

3.The contention of the petitioners is that the petitioners are A1,

A2 and A9 and they were arrested by the respondent police in Crime No.158 of 2020 for the alleged offences under Sections 143, 224, 225B, 271, 283, 294(b), 341, 353, 506(2) of IPC and Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 except for the offences under Sections 353 & 506 (ii) of IPC and Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 the other offences are bailable.

4.The learned counsel for the petitioners further contended that the defacto complainant in this case is none other than the Inspector of Police of Kinathukadavu Police Station who received a secret information from the informer and the police party had gone to Valparai where and identified by the informant. The second accused C.Keerthi Anand was picked up, brought him in the vehicle. The petitioners herein had only made a request to the defacto complainant asked the reason for taking the second petitioner forcibly and whether any warrant is there to take him. No arrest memo was produced, none of the family members were informed about the arrest. When these fundamental guidelines were violated, the same was questioned by the petitioners. The defacto

complainant was unable to give proper answer, got offended and lodged a false complaint. The petitioners exercised their democratic and legal rights. The defacto complainant for his follies lodged a false complaint against the petitioners. Thereafter, the petitioners were arrested in this case later on the same day. Further submitted that the 1st and 2nd petitioners who are accused in Crime No. 946 of 2020 was granted bail by the lower Court. The defacto complainant at the instance of persons in power are attempting to throttle the voice of democracy. The petitioners had not committed any offence and they are falsely implicated in this case, the 1st and 2nd petitioners are in judicial custody from 31.05.2020 and 3rd petitioner from 02.06.2020.

5.The learned Additional Public Prosecutor submitted that the defacto complainant is none other than the Inspector of Police, Kinathukadavu Police Station, who during the investigation in Crime No.946 of 2020 for the offences under Sections 153 & 505 (i) (b) of IPC received secret information from the informer that the 2nd petitioner was hiding near Valparai. The police party had proceed in the government official bolero Jeep on the identification of the informer the 2nd petitioner

was arrested in furtherance to it he was taken in the Jeep, on the way the arrest was informed to the Valayar Police. Thereafter, the defacto complainant along with the 2nd petitioner and police party were proceeding in the government official bolero jeep near Aliyar Forest Check Post, the 1st and 3rd petitioners along with his party men had converged and squatted in the road and restrained the defacto complainant to proceed further in the government official bolero jeep, they threatened and used abusive language against the police party/public servant, deterred and prevented the public servant in discharging their official duty. The defacto complainant got down from the vehicle found that the persons were belonging to DMK political party, led by the 1st petitioner and other office bearers. Thereafter, sensing further trouble the defacto complainant informed Aliyar Police Station about the incident. In the meanwhile, one Maruti Omni Van passed by it was stopped and the 2nd petitioner was shifted in that vehicle. The 1st and 3rd petitioners along with others stopped that Maruti Omni Van. Thereafter the 2nd petitioner fled from the scene and taken away in a Maruthi Alto Car. Thereafter, special team were formed and the petitioners were arrested on the same day during night hours. The petitioners being members of the unlawful

party, not adhering to the rules and the guidelines issued by the Government assembled exhibited their brute force and taken the law in to their own hands. The petitioners along with others purposely acted in a manner violating 144 Cr.P.C. The petitioners assembled into unlawful assembly to release the 2nd petitioner from police custody. In the process they damaged the government official Mahendra Bolero Jeep and Maruthi Omni Vehicle and opposed the bail application.

6.Considering the submissions made on either side, it is found that the Inspector of Police, Kinnathukathavu Police who on specific information along with a team had gone to Valparai out of his Jurisdiction to arrest the second petitioner, strangely was not armed with arrest warrant in Crime No.946 of 2020. The petitioners are political personnels who questioned the act of the defacto complainant which ensued into verbal attack and thereafter, registration of the case. In view of the same and also taking note of the fact that the petitioners were already granted bail by the lower Court in Crime No.946 of 2020, this Court is inclined to grant bail to the petitioners, subject to the following conditions:

(a) the petitioners shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) 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) each before the Superintendent of the concerned prison, in which the petitioners had 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.

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

19.06.2020

Internet: Yes/No

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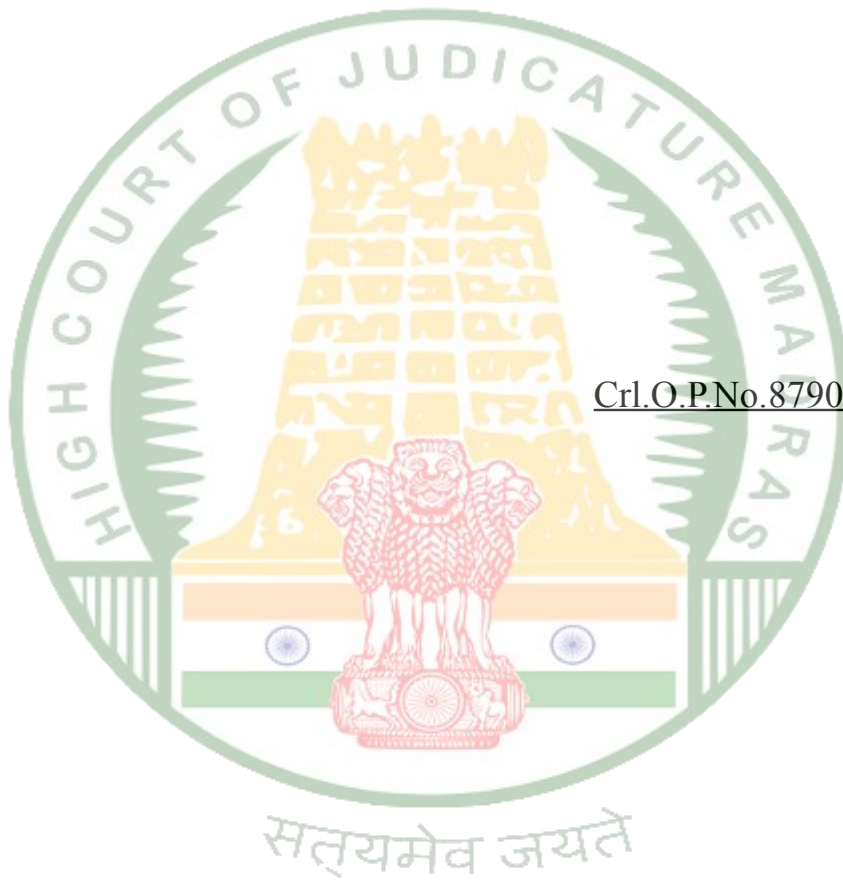
1. The learned Judicial Magistrate-II,
Pollachi.
2. The Superintendent,
Central Prison, Coimbatore.
3. The Inspector of Police,
Aliyar Police Station,
Pollachi.
4. The Public Prosecutor,
High Court of Madras.

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M.NIRMAL KUMAR,J.

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