

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2020

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.9102 of 2020

1. M.Srinivasan (47 yrs)
S/o Malli Door No: 41 B,
Senguttuvan Street,
D Colony Jothipuram,
Pollachi,
Coimbatore – 642 001
2. S.Shanmugapriya (41 yrs)
W/o M.Srinivasan Door NO: 41 B,
Senguttuvan Street,
D Colony Jothipuram,
Pollachi,
Coimbatore – 642 001.
3. Deventhiran (M/45 yrs)
S/o Murugesh Door No.60A,
Thiruvalluvar Colony Kottur Malaiyandipattinam,
Pollachi,
Coimbatore District- 642114.
4. S.K.Balachandar @ Balu (48 yrs)
S/o Seakamalai Gounder Door No: 1-226,
Negamam Vezhi,
Devanampalayam,
Coimbatore – 642 120.

5. M.Amudhabharathi (45 yrs)
S/o Marimuthu,
Door No: 13/2,
Alagappan Mill street,
Nethaji Road,
Pollachi,
Coimbatore – 642 001.
6. Manikanda Prabu, (M/40 yrs)
S/o.Murugesan,
D.No.5/20,Min Nagar,
Kandasampuram,
Makkinampatty,
Pollachi, Coimbatore District- 642003.
7. S.Gowtham (23 yrs)
S/o Sundharah,
Door No: 43/18,
Indhran Nagar,
Anna Colony,
Pollachi,
Coimbatore – 642 002.
8. A.Senthilkumar (M/44 yrs)
S/o Angamthu,
No.1, Saranya Garden,
Adhiyaman Street,
Jothi Nagar,
Pollachi Coimbatore District- 642001.
9. N.Karthikeyan, (M/60 yrs)
S/o Narayanasamy,
Door No: 69,
Venkataramanan Street,
Pollachi Coimbatore District – 642 001.

10. Ramu @ Auto Ramu (34 yrs)
S/o Nagamani Door No: 125/65,
Nehru Nager,
Pollachi,
Coimbatore – 642 001.
11. V.Sabareeswaran @ Sabari (42 yrs)
S/o Velusamy Devar,
Door No: 1/94,
Aranmani Street,
Ramapattanam,
Pollachi,
Coimbatore – 642 005.
12. N.Arunprakash @ Arun (M/45 yrs)
S/o Natarasan, Door No: 1/17,
Palakkad Road,
Zamin muthur,
Pollachi,
Coimbatore – 642 005.
13. P.Marimuthu (44 yrs)
S/o Paraman,
Door No: 64A,
Nandhanar Colony,
Palladam Road,
Pollachi,
Coimbatore – 642 002.
14. R.Jagadeeshkumar @ Jegadesh (24 yrs)
S/o Ramesh,
Door No: 2,
Kattapomman Street,
Pollachi,
Coimbatore – 642 001.

15. S.Eswaran (M/29 yrs)
S/o Subaramanian,
Door No: 60/1,
Palaniyappan Street,
Pollachi Coimbatore District – 642 001.
16. V.Senthil Kumar @ Senthil (M/48 yrs)
S/o Veeran,
Door No: 5/14,
Seerapalaiyam,
Madukkarai,
Coimbatore – 641 105.
17. G.Magenthiran (29 yrs)
S/o Gunasekaran Door No: 11,
Annai Kashury Pai Street,
Pollachi,
Coimbatore – 642 001.
18. A.Ibrahim @ Bike Babu (35 yrs)
S/o Ali, Door No: 64/68,
Kumaran Nagar, Pollachi,
Coimbatore – 642 001.
19. A.Sahul Hameed (45 yrs)
S/o Aneeba,
Door No: 9,
Compounder Street,
Pollachi Coimbatore – 642 001.
20. P.Senthil Kumar (39 years)
S/o Pandiyan Door No: 8/359,
Cooperative Colony,
Valparai Tk,
Coimbatore District – 642 127.

21. S.Venkatesh (38 yrs)
S/o Subramaniam,
Door No: 15,
Vibgyar Velley,
Kumaran Nagar,
Pollachi,
Coimbatore – 642 001.
22. S.Venkatash (M/34 yrs)
S/o Sudalimani Door No: 10/127,
Valaithotam,
Valparai Tk,
Coimbatore District – 642 127.
23. N.Radhakrishnan (55 yrs)
S/o Nachimuthu Door No: 2/90,
Alamarath Thottam,
Kurumbapalayam,
Coimbatore – 642 002.
24. S.Thangavel (40 yrs)
S/o Subramaniam Door No: 58,
Pottumedu,
Marapettai Street,
Udumalai Road,
Pollachi,
Coimbatore – 642 001.
25. M.Sabarimuthuveeran (24 yrs)
S/o Muthuveeran Door No: 2/1,
Sornapuri Nagar,
T.Kottampatti, Pollachi,
Coimbatore 642 002.

26. T. Palpandi (M/52 yrs)
S/o Tamilmani, Advocate D.No. 8/416,
Co.Operative Colony,
Valparai, Coimbatore District- 642027.
27. Manimaran (M/27 yrs)
S/o. Selvaraj,
No.11, Sundaram Layout,
Nethaji Road, Pollachi,
Coimbatore District- 642001.
28. S.Patteswaran (35 yrs)
S/o Sinnaom, Door No: 61/3,
Marapettai Street,
Pottumedu,
Udumalai Road,
Pollachi, Coimbatore – 642 001.
29. K.Nagaraj (58 yrs)
S/o Krishnan Door No: 9/1,
Alappa lay out,
Nethahi Road,
Pollachi, Coimbatore – 642 001.
30. E.Lingadurai (M/41 yrs)
S/o Isaiki Muthu,
Door No: 143/68,
Ambedkar street,
Vedugapalayam,
Pollachi Coimbatore - 642 001.
31. K.Magudeeshwaran (M/30 yrs)
S/o Ganeshan D.No.3/301,
Siruvar Poonga Valparai,
Coimbatore District- 642027.

32. T.M.Moideen, (M/64 yrs)
S/o Mohemmed, 1/248,
Attakatti, Aliar Nagar,
Pollachi Coimbatore District- 642101.

33. Saleem, (M/33 Yrs)
S/o, Moideen, 1/248,
Attakatti, Aliar Nagar,
Pollachi Coimbatore District- 642101.

34. V.Jayaraj (65 yrs)
S/o Vanji Door No: 19B,
Jayaprakash street,
Malayandipattinam,
Kottur, Coimbaotre – 642 114.

35. M.Basheer (M/40 yrs)
S/o Moideen, D.No.28A,
Kurinji Nagar,
Aliyar Nagar 1/248,
Attakatti, Aliar Nagar,
Pollachi Coimbatore District- 642101.

36. K.Thiyagarajan (58 yrs)
S/o Kannathasan Door No: 4/22,
River side colony,
Aliyar nagar,
Coimbatore – 642 101.

37. S.Anthonyraj, (36 yrs)
S/o Stenishlos,
Door No: 12/21D,
Atrupura Colony Aliyar Nagar,
Pollachi, Coimbatore – 642 101.

38. Muthulakshmi @ Muthal (F/53 yrs)
W/o Mylsamy, D.No.2/1,
L.F Colony,
Aliar Nagar,
Pollachi, Coimbatore District- 642101.

39. I.Rajendaran (54 yrs)
S/o Iyyavu, Door No: 14/3 26,
Atrupura colony,
Aliyar Nagar Pollachi,
Coimbatore – 642 101.

40. Vinoth Kumar (M/49 Yrs)
S/o. P.V.Balakrishnan, Advocate
D.No.8/447,
Co.operative Colony,
Valparai, Coimbatore District- 642127.

41. K.Krishnamoorhty @ Jayarm (45 yrs)
S/o Krishnan Door No: 391/04,
Sirukundra L D,
Stanemore group,
Valparai, Coimbatore – 642 127.

42. S.Senthil Kumar (M/53 yrs)
S/o Shanmugam Door No: 1/302,
Thulasinga Nagar,
Valparai Tk,
Coimbatore District – 642 127.

43. K.Paramaswaran @ Anandan, (46 yrs)
S/o Kittan, Door No: 1/19,
Mathuraiveeran Kovil Street,
Sangampalayam,
Anamalai T.K. Coimbatore District.

...Petitioners

-Vs-

The State of Tamil Nadu Rep. by
The Inspector of Police
Aliyar Police Station,
Pollachi
Cr. No: 158/2020

..... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioners on bail in the even of their arrest in Crime No.158 of 2020 on the file of the respondent police.

For Petitioners : Mr.N.R.Elango, Senior Counsel
For Mr.Aswin Prasanna

For Respondent : Mr.A.Natarajan,
State Public Prosecutor.

ORDER

The petitioners who apprehend arrest at the hands of the respondent police 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 (herein after called as 'TNPPDL Act') in Crime No.158 of 2020, seek anticipatory bail.

2. The case of the prosecution is that on the complaint lodged by the Inspector of Police, Kinathukadavu Police Station, alleging that the second accused herein viz., Keerthi Anand was arrested at Valparai in connection with the case in Crime No.946 of 2020 on the file of the Inspector of Police, Kinathukadavu Police Station registered for the offences under Sections 153 & 505(i)(b) of IPC in pursuant to the occurrence took place on 26.05.2020 alleging that sending false message through whatsapp. Thereafter, he was taken by the defacto complainant in the police vehicle bearing Reg.No. TN66G0118 Bolero Jeep towards the Police Station. When the vehicle was reached at Aliyar forest check post, the petitioners unlawfully assembled there and also violated the government order issued under Section 144 of Cr.P.C., and attacked the police jeep. They also prevented the defacto complainant to do his official duty and pushed him down and thereafter all the accused persons have taken the accused Keerthi Anand in their car bearing Reg.No.TN41 AR 2929 and escaped from the place of occurrence. Hence the complaint.

3. Mr.N.R.Elango, learned Senior counsel appearing for the petitioners submitted that on the complaint lodged by the Inspector of Police

Kinathukadavu Police Station, the present complaint has been registered. In pursuant to the FIR A1, A2 and A9 were arrested and remanded to judicial custody. Subsequently, they were released on bail by this Court in Crl.O.P. No.8790 of 2020 by an order dated 19.06.2020. Insofar as the petitioners are concerned, the third petitioner is arraigned as A3; sixth petitioner is arraigned as A6; 16th petitioner is arraigned as A8; 26th petitioner is arraigned as A4; 27th petitioner is arraigned as A7 and 31st petitioner is arraigned as A5. The other petitioners are also arraigned as accused and no rank was shown in the FIR. They have arraigned as accused under the category of others.

3.1. Admittedly all the petitioners are belongs to political party of DMK and their local leader Keerthi Anand viz., the second accused in this case was arrested in pursuant to the crime No.946 of 2020 on the file of the defacto complainant, which was registered for the offences under Sections 153 & 505(i)(b) of IPC for the occurrence took place on 26.05.2020. The defacto complainant illegally arrested him and as such the petitioners and others questioned the defacto complainant about the illegal arrest. Therefore, there was a wordy altercation between them. Except the offences under

Sections 353, 506(2) of IPC and Section 3(1) of TNPPDL Act all other offences are bailable offences. Even as per the case of the prosecution no offences are made out under Section 506(2) of IPC and 3(1) of TNPPDL Act.

3.2. He further submitted that the present case has been registered with the political motivation and the petitioners are nothing to do with the crime as alleged by the prosecution. He further submitted that, in fact while arresting the said Keerthi Anand, the Sub Inspector of Police, Kinathukadavu Police Station, attacked his parents and as such he lodged complaint against the Sub Inspector of Police and the same was registered in Crime No.919 of 2020 for the offences under Sections 448 and 323 of IPC on the file of the Inspector of Police, Negamam Police Station. In fact, counter complaint also lodged by the Sub Inspector of Police, Kinathukadavu Police Station and the same was also registered in Crime No.918 of 2020 for the offences under Sections 294(b), 353 and 506(i) of IPC on the file of the very same Police Station.

3.3. The learned Senior Counsel further submitted that in the present case no one was sustained injury and while the wordy altercation, there was a fiction full between them. He further submitted that during the pandemic of Corona Virus (Covid-19) situation the custodial interrogation of the petitioners is absolutely not necessary and as such he prayed for anticipatory bail to the petitioners.

4. Per contra, Mr.A.Natarajan, learned State Public Prosecutor would submit that the Inspector of Police, Kinathukadavu Police Station proceed to arrest the second accused Mr.Keerthi Anand on the secrete information and he was arrested. While he was taken to the Police Station by their Police jeep, near Aliyar forest check post, the petitioners along with other accused persons waylaid the defacto complainant and restrained him not to proceed further. They also caused damage to the police jeep and threatened with dire consequences that if not release the second accused, they would kill them and also abused them. They also prevented the defacto complainant from discharging his official duty. All the accused persons are belonged to political party of DMK, which lead by the first accused.

Thereafter, they had taken the second accused from the police jeep and boarded in their car and flew away. Thereafter, a special team was formed and arrested the second and seventh accused. He further submitted that all the accused persons have violated the Government Order passed under Section 144 of Cr.P.C., and assembled unlawfully to release the second accused from the police custody. Therefore, the custodial interrogation of the petitioners are very much necessary and hence he vehemently opposed to grant of anticipatory bail to the petitioners.

5. Heard Mr.N.R.Elango, learned Senior Counsel appearing for the petitioners and Mr.A.Natarajan, learned State Public Prosecutor appearing for the respondent.

6. The defacto complainant after arresting the second accused in this case, proceeded to Police Station in their police jeep. While proceeding to the Police Station, the defacto complainant was waylaid by the petitioners and others and also caused damage to the Police jeep. Thereafter, they taken the arrested accused from the police jeep and boarded into their car and flew

away. Thereafter some of the accused persons were arrested and the arrested accused persons are released on bail by this Court in Crl.O.P.No.8790 of 2020 by an order dated 19.06.2020. Considering the present situation of pandemic of Corona Virus (Covid-19), the custodial interrogation of the petitioners are not possible.

7. Considering the above facts and circumstances of the case, this Court is of the opinion that the petitioners shall file an individual separate affidavit undertaking that they will not indulge in any illegal activities in future, before the respondent police and also deposit a sum of Rs.10,000/- (Rupees ten thousand only) each as non refundable deposit to the credit of the **the Chief Minister Public Relief Fund, Tamil Nadu**, without prejudice to their rights and contentions before the trial Court. Merely, because the petitioners have deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

8. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, the petitioners shall file an individual affidavit undertaking that they will not indulge in any illegal activities in future, before the respondent police and also deposit a sum of Rs.10,000/- (Rupees ten thousand only) each as non refundable deposit to the credit of **the Chief Minister Public Relief Fund, Tamil Nadu**, within a period of fifteen days from the date on which the order copy made ready and on such deposit and filing of undertaking affidavit, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate-II, Pollachi, on condition that each of the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, out of which, one surety shall be a blood related surety, each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and 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.

[b] each of the petitioners shall deposit a sum of Rs.10,000/- (Rupees ten thousand only) to the credit of **the Chief Minister Public Relief Fund, Tamil Nadu**, and shall produce the said receipt before the Court below.

[c] the petitioners shall file an individual separate affidavit undertaking that they will not indulge in any illegal activities in future, before the respondent police.

[d] if the petitioners violated any of the undertaken given by them in their affidavit, the respondent is directed to take appropriate action as against the petitioners in accordance with law.

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

[f] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[g] the petitioner shall not abscond either during investigation or trial.

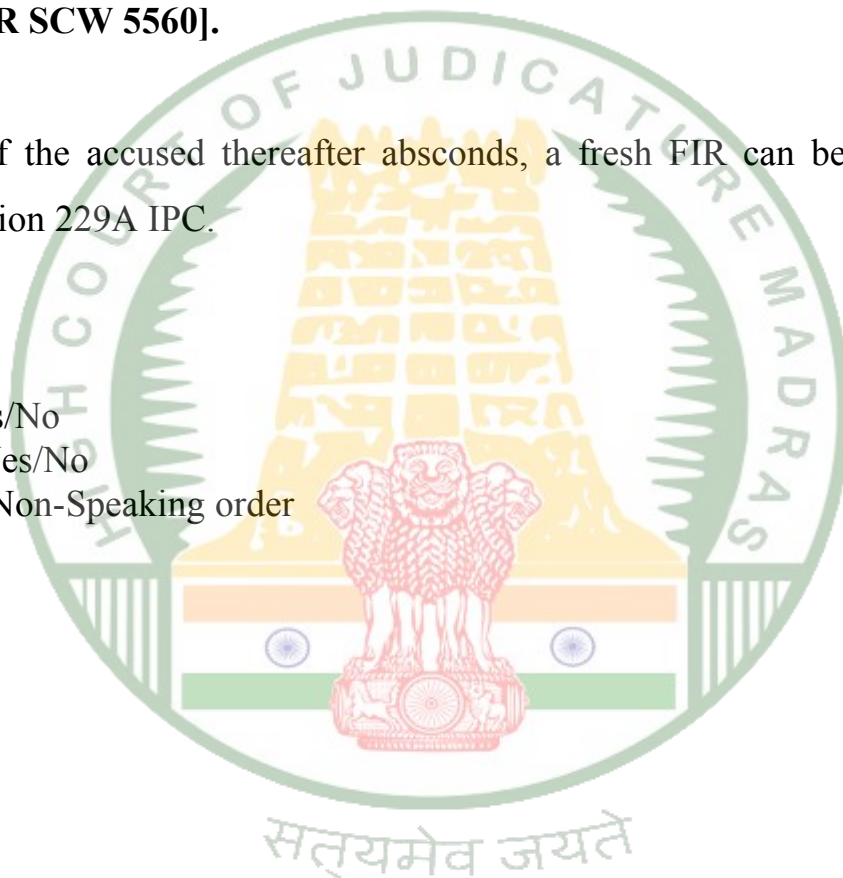
[h] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

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

29.06.2020

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order

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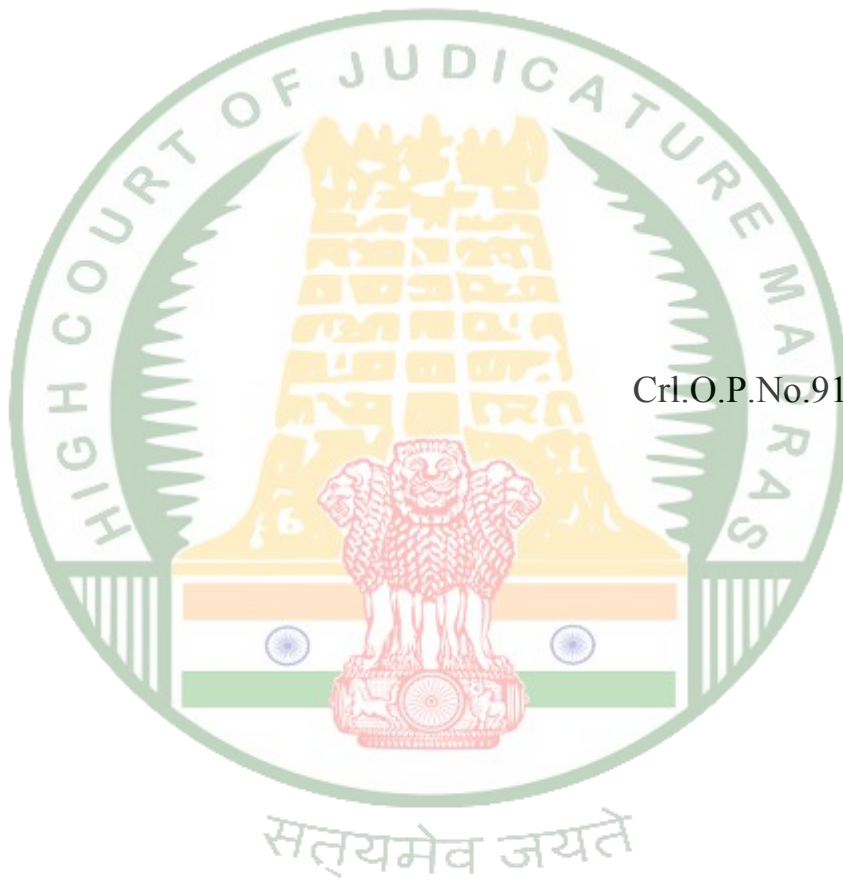
1. The Judicial Magistrate-II,
Pollachi
2. The Inspector of Police
Aliyar Police Station,
Pollachi
3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J

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Crl.O.P.No.9102 of 2020

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