

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.07.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.9421 of 2020

1.N.Nagaraj
2.N.Narendiran
3.S.Selvaraj
4.S.Karthikeya

... Petitioners

Vs.

The State Represented by
Adiyamankottai Police Station
Dharmapuri District
(Crime No.865 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.865 of 2020 pending investigation on the file of the respondent police.

For Petitioners : Mr.J.Prakasam

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (CrI. Side)

O R D E R

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 30.05.2020 for the offence punishable under Sections 447, 294(b), 307 IPC, 1860 in Crime No.865 of 2020, seek bail.

2. The case of the prosecution is that the defacto complainant one Karthikeyan has been working as a driver for the past 10 years under one Jaganathan, who is residing at Salem. The said Jaganathan owns 25 acres of land situated at Survey No.867/2, A.Jattihalli Village, Nallampalli Taluk, Dharmapuri District and a civil suit is pending in respect of the property in O.S.No.71 of 2010. The 1st petitioner has also filed a suit in O.S.No.12 of 2015 for declaration and permanent injunction, which was decreed in favour of Jaganathan by the learned Additional District Judge, with regard to the above said property. While so, when the defacto complainant, his owner Jaganathan and some other persons with the help of Nallampalli Taluk tahsildar, Revenue officials and Surveyor were measuring the above stated land, the petitioners abused them in filthy language and assaulted them by throwing stones, thereby, the defacto complainant sustained injury.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that the above said property is their ancestral and joint family property. The 2nd petitioner is the son of the 1st petitioner, the 3rd petitioner is the brother of the 1st petitioner and the 4th petitioner is the friend of the 1st petitioner and the entire family is implicated in this case based on the false complaint given by the defacto complainant.

4.The learned Government Advocate (Cr1. Side) would submit that the civil dispute is pending between the 1st petitioner and the owner of the defacto complainant in respect of the property situated in A.Jattihalli Village, Nallampalli Taluk, Dharmapuri District. He would further submit that the 1st petitioner fabricated patta and other documents belonging to the said Jaganathan in respect of the above said property and he had also played fraud on the Court by obtaining false Arbitration Award. The 1st petitioner is also convicted by the learned Judicial Magistrate No.I, Dharmapuri. He would further submit that when the defacto complainant along with revenue officials had visited the site for surveying the property, the petitioners have assaulted him by stones, thereby, the defacto complainant sustained injury on his head. He would further submit that the injured has been discharged. The 1st petitioner is having two previous cases pending against him and there is no previous case pending against the petitioners 2 to 4.

5.The learned counsel appearing for the intervener would submit that the 1st petitioner by fabricating the documents attempted to usurp the property belonging to the owner of the defacto complainant. He would further submit that the 1st petitioner had also played fraud on the court by fabricating Arbitration Award and attempted to usurp the property belonging to the owner of the defacto complainant. He would further submit that the 1st petitioner was convicted by the learned Judicial Magistrate No.I, Dharmapuri, for the offences committed under Sections 419 and 468 IPC. He would further submit the defacto complainant's boss had given complaints against the 1st petitioner in respect of the fake arbitral proceedings and the complaints are taken for enquiry before a Division Bench of this Court.

6.At this juncture, the learned counsel appearing for the petitioners would submit that the 1st petitioner is an innocent and due to the dispute with regard to the property, a false complaint has been given. However, he would submit that he is not pressing the bail application for the 1st petitioner. The petitioners 2 to 4 are only the relatives of the 1st petitioner and they have been unnecessarily dragged into this case, and they have been falsely implicated in this case and they are inside the prison from 30.05.2020.

7. Taking into consideration of the facts and circumstances of the case and also considering the submissions made by the learned counsels, this Court is not inclined to grant bail to the 1st petitioner and his bail petition stands dismissed as withdrawn and as far as the petitioners 2 to 4 are concerned, this court is inclined to grant bail to the petitioners 2 to 4 subject to the following conditions:

(a) Accordingly, the petitioners 2 to 4 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 and thereafter on their release;

(b) the petitioners 2 to 4 shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the Judicial Magistrate Court No.II, Dharmapuri, within 15 days from the date of lifting of the lockdown and the commencement of the Court's normal functioning, 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 2 to 4 shall report before the Dharmapuri Town Police Station daily at 10.30 a.m. until further orders. It is made clear that the petitioners 2 to 4 shall not enter the jurisdiction limit of Adiyamankottai Police Station.

(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.

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

-sd/-

07/07/2020

This order, on being produced, be punctually observed and carried into execution by all concerned
TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, DHARMAPURI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ADIYAMANKOTTAI POLICE STATION,
DHARMAPURI DISTRICT.

4 THE JUDICIAL MAGISTRATE,
NO.I, DHARMAPURI

5 THE OFFICER INCHARGE,
SUB JAIL, DHARMAPURI

6 THE OFFICER INCHARGE,
DHARMAPURI TOWN POLICE STATION,
DHARMAPURI.

CC to M/S.J.PRAKASAM Advocate on payment of necessary charges

WEB COPY
CRL OP.9421/2020
Date :07/07/2020

RVR 02/09/2020