

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.08.2020

CORAM :

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

Crl.O.P.Nos.11408 & 10943 of 2020

1.Sivakumar S/o.Packiri
2.Thiliban S/o.Sivakumar
3.Pugalenth S/o.Palanivel

... Petitioner in
Crl.O.P.11408/2020

Dinesh S/o. Govindaraj

... Petitioner in
Crl.O.P.10943/2020

Vs.

The State Rep. by
Inspector of Police
Muthupettai Police Station
Thiruvarur District
(Crime No.1681 of 2020)

... Respondent in both
Crl.O.Ps.

COMMON PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.1681 of 2020 pending on the file of the Inspector of Police, Muthupettai Police Station, Thiruvarur District.

For Petitioner : Mr.Swami Subamanian in both Crl.O.Ps.

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

C O M M O N O R D E R

(These cases have been heard through video conference)

The petitioners in Crl.O.P.No.11408 of 2020, were arrested and remanded to judicial custody on 14.06.2020 for the offences punishable under Section 147, 148, 452, 294(b), 324, 307, 379 and 506 (ii) IPC, in Crime No.1681 of 2008, seek bail.

2.The petitioner in Crl.O.P.No.10943 of 2020, was arrested and remanded to judicial custody on 17.06.2020 for the offences punishable under Section 147, 148, 452, 294(b), 324, 307, 379 and 506 (ii) IPC r/w 3(1) of TNPPDL Act, in Crime No.1681 of 2008, seeks bail.

3. The case of the prosecution as per the defacto complainant / owner of the Restaurant is that on 13.06.2020 the accused persons had come to his Hotel and bought lunch. At that time, one of the petitioners asked the defacto complainant whether he knows the District Secretary of the party, when the defacto complainant told

that he does not know the same, the accused called the other accused and they have ransacked the hotel, caused damage to the hotel and also the vehicle parked in the hotel and taken away a cash of Rs.35,000/- from the cash box.

4.The learned counsel appearing for the petitioners would submit that the petitioners are innocent. He would further submit that the petitioners belong to a particular political party, due to political rivalry, they have been falsely implicated in this case. He would further submit that the petitioners in CrI.O.P.No.11408 of 2020 are in custody from 14.06.2020 and the petitioner in CrI.O.P.No.10943 of 2020 is in custody from 17.06.2020. He would further submit that the injured has been discharged. He would further submit that without prejudice to their defence, the petitioners are prepared to deposit considerable amount to the credit of Crime No. 1681 of 2020 towards the value of damages caused to the defacto complainant.

5.The learned Government Advocate (Criminal Side) would submit that the petitioners belong to a political party and bought lunch in the Restaurant of the defacto complainant. Al asked defacto complainant about the position of the 2nd Accused in the political party, the defacto complainant told that he was not aware of it, they have assaulted him and also caused damage to the hotel and to the vehicles parked outside to the tune of Rs.35,000/- and ransacked the hotel and taken a sum of Rs.35,000/- from the cash counter. He would further submit that totally there are 10 accused in this case.

6.Taking into consideration of the facts and circumstances and also considering the submissions made by the learned counsels and period of incarceration suffered by the petitioners, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail on condition to execute 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 have been confined and thereafter on their release;

(b) the petitioners shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned Judicial Magistrate, Thiruthuraipoondi, Thiruvarur District, within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the petitioners are directed to deposit a sum of Rs.10,000/- (Rupees ten thousand only) each, to the credit of Crime No.1681 of 2020 before the concerned Judicial Magistrate within a period of fifteen days from the date of their release.

(d) the final order in respect of the said deposit shall be passed by the learned Trial Magistrate at the conclusion of trial.

(e) 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;

(f) the petitioners shall report before the respondent police daily at 10.30 a.m. until further orders.

(g) the petitioners shall not commit any offences of similar nature;

(h) the petitioners shall not abscond either during investigation or trial;

(i) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(j) 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];

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

7. With the above directions, these Criminal Original Petitions are ordered.

-sd/-

04/08/2020

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,
THIRUTHURAIPOONDI

2 THE SUPERINTENDENT,
CENTRAL PRISON, TIRUCHIRAPALLI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MUTHUPETTAI POLICE STATION,
THIRUVARUR DISTRICT,

CC to SWAMISUBRAMANIAN Advocate on payment of necessary charges

CRL OP.11408 & 10943/2020

Date : 04/08/2020