

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.07.2020

CORAM :

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

Crl.O.P.No.11188 of 2020

G.Kumar

... Petitioner

Vs.

STATE: Represented by
The Inspector of Police
Thiruporur Police Station
Kancheepuram District
(Crime No.1627 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.1627 of 2020, pending investigation on the file of the Respondent.

For Petitioner : Mr.R.John Sathyan

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 12.07.2020 for the offences punishable under Section 147, 148, 324, 307 of IPC read with 25 (1A) of the Arms Act, 1959, in Crime No.1627 of 2020, seeks bail.

2.The case of the prosecution as per the defacto complainant/Lakshmipathy is that on 11.07.2020 is that one Raghuram, Janarthanam and Shanmugam along with 50 hirelings had come to the village and attempted to lay a pathway, due to which there was quarrel between them and the villagers. When the defacto complainant had questioned them, one among the unknown persons who had come along with the named accused attempted to inflict cut injury with the knife and the defacto complainant sustained cut injury on the left hip. The same person had further attempted to cut the defacto complainant and one Gurunathan who is known to the defacto complainant intervened and attempted to save the defacto complainant and the same person inflicted cut injuries on Gurunathan and one

Manogaran who was standing nearby. Fearing danger to life the defacto complainant rushed to his house and had taken out the single barrel gun and fired towards the sky to scare the accused and on seeing that all the accused have run away from the scene of occurrence.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. The petitioner is the owner of land in Sengadu village and the petitioner was developing the land for putting up a dairy farm. The defacto complainant who is the father of the local MLA and influential person in the village did not want the petitioner to put up dairy farm had caused damage to the pathway which was the access to the petitioner's land, in respect of which there was previous dispute and two complainants were pending. While so, on 11.07.2020 when the men engaged by the petitioner were laying an approach road to the farm, the defacto complainant and his son, a sitting MLA and the hirelings engaged by them assaulted the men engaged by the petitioner, resulting in the men engaged by the petitioner suffering injuries. Infact, the son of the defacto complainant had fired at them using guns. Whereas, a false complaint has been given as if the men engaged by the petitioner assaulted the defacto complainant. He would submit that on a complaint given by one Srinivasan, the case has been registered against the defacto complainant's son for offence under Sections 308 IPC and Section 25(1A) of the Arms Act for having used a gun and caused injuries and based on the complaint given by the petitioner, a case in Cr.No.1628 of 2020 has been registered against the defacto complainant, his son and their hirelings for the offences under Sections 147, 148, 341, 323, 307 IPC and Section 25(1A) of Indian Arms Act. He would further submit that it is a case and case in counter. The petitioner is in custody from 12.07.2020 and he is prepared to abide by any conditions.

4. The respondent had filed a counter. The learned Government Advocate (Crl.side) vehemently opposed stating that the named accused alongwith 50 other hirelings attempted to illegally put up pathway to the land of the petitioner and when it was objected by the defacto complainant and his men, one of the hirelings engaged by the petitioner attacked the defacto complainant and two other persons with knife causing cut injuries. The defacto complainant had stated that in order to protect himself had fired with the single barrel gun to scare them and the accused ran away. Further during the investigation it has come to light that the defacto complainant has not fired towards the accused, whereas his son who is the sitting MLA had used the fire arm. Based on the complaint given by the petitioner a case in Cr.No.1628 of 2020 has been registered against the defacto complainant and his son. Yet another case has been registered against the defacto complainant's son in Cr.No.1626 of 2020 for the offence under Section 308 IPC and Section 21(1A) of Indian Arms Act. He would submit that the investigation is pending, some of the accused are absconding and there is picketing and tension prevails in the village. He would submit that though the name of the petitioner is not found in the FIR, he is the root cause for the entire incident.

5.At this juncture, the learned counsel for the petitioner would submit that the petitioner is not a resident of Sengadu village and he is prepared to abide by any stringent conditions imposed by this Court and he will stay away from the scene of occurrence.

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

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the petitioner has been confined and thereafter on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only), before the learned Judicial Magistrate No.I, Chengalpattu, 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 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 petitioner shall report before the Thuraipakkam Police Station everyday at 10.30 a.m. and 5.30 p.m. until further orders. The petitioner shall not enter into the jurisdiction limits of the respondent police.

(e)the petitioner shall not commit any offences of similar nature;

(f)the petitioner shall not abscond either during investigation or trial;

(g)the petitioner 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.

-sd/-
31/07/2020

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.I, CHENGALPATTU.

2 THE OFFICER INCHARGE
SUB JAIL, CHENGALPATTU.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
THIRUPORUR POLICE STATION
KANCHEEPURAM DISTRICT.

5 THE OFFICER INCHARGE
THURAIPAKKAM POLICE STATION. सत्यमेव जयते

CC to M/S. R.JOHN SATHYAN Advocate on payment of necessary charges

WEB COPY

CRL OP.11188/2020

Date :31/07/2020

cs 02/09/2020