

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.07.2020

CORAM :

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

Crl.O.P.No.11266 of 2020

N.Nagaraj

... Petitioner

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 petitioner on bail in Crime No.865 of 2020, pending on the file of the Respondent Police.

For Petitioner : Mr.J.Prakasam

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

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 30.05.2020 for the offences punishable under Section 447, 294(b), 307 IPC 1860, in Crime No.865 of 2020, seeks 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 Taluktahsildar, Revenue officials and Surveyor were measuring the above stated land, the petitioner along with other accused abused them in filthy language and assaulted them by throwing stones, thereby, the defacto complainant sustained injury.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the above said property is his ancestral and joint family property. He would further submit that the defacto complainant is the owner who attempted to dispossess the petitioner and had been filing cases before the various Courts. However, without moving to proper channel forcing to evict and without any Court order attempted to evict the petitioner by force by giving a false complaint. He would further submit that so called the injured have been discharged from the hospital.

4.The learned Government Advocate (Crl. Side) would submit that the civil dispute is pending between the 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 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 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 petitioner is having two previous cases pending against him.

5.The learned counsel appearing for the intervener would submit that the petitioner by fabricating the documents attempted to usurp the property belonging to the owner of the defacto complainant. He would further submit that the 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 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 petitioner in respect of the fake Arbitral proceedings and the complaints are taken for enquiry before the Division Bench of this Court. He would further submit that the petitioner had never complied with any conditions imposed by this Court. Hence, he vehemently oppose for the grant of bail to the petitioner.

6.At this juncture, the learned counsel for the petitioner would submit that the petitioner is in custody for the past 60 days. The injured person is also said to have been discharged from the hospital.

7.Taking into consideration of the facts and circumstances, considering the submissions made by the learned counsels, and also considering the period of incarceration, 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 Judicial Magistrate Court No.II, Dharmapuri, 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 Dharmapuri Town Police Station daily at 10.30 a.m. until further orders. It is made clear that the petitioners shall not enter the jurisdiction limits of Adiyamankottai Police Station.

(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.

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

-sd/-

30/07/2020

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

TRUE COPY

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, DHARMAPURI.

2 THE JUDICIAL MAGISTRATE,
NO.I, DHARMAPURI.

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

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

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

CRL OP.11266/2020

Date :30/07/2020

cs 28/08/2020