

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.07.2020

CORAM :

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

Crl.O.P.No.11122 of 2020

1.Babu
S/o.Kondappa Nayakkar.

2.Nagalingam
S/o.Pommaya Nayakar. Petitioners

Vs.

**[*]State rep. by
The Inspector of Police
Railways police station
Erode,
Erode District.
(Crime No.82 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.82 of 2020 pending on the file of the Respondent Police.

For Petitioners : Mr.P.Saravanan
For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. 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 22.05.2020 for the offences punishable under Section 153 and 150(1)(a) RLY Act, in Crime No.154 of 2020, seek bail.

2. The case of the prosecution is that the petitioners removed two concrete railway milestones and placed them on the railway track with an intention to cause damage to the running trains. Hence, the complaint.

3.The learned counsel appearing for the petitioners would submit that that the petitioners are innocent and they have been falsely implicated in this case. He would submit that the petitioners are villagers and on the particular day, they were consuming liquor near the railway track and only on suspicion they have been implicated in this case. He would further submit that the petitioners have no

antecedents and they have been in judicial custody for more than two months from 22.05.2020. Hence, he seeks for grant of bail to the petitioners.

4.The learned Government Advocate (Crl. Side) would submit that the petitioners who are the residents of Parapatti village, in a drunken mood, removed two railway milestones and kept them on the railway track and caused mischiefs following which, a complaint was given by the driver of the goods train to the Station Master subsequently, the case was registered by the railway police. He would further submit that investigation is pending. Hence, he opposed for grant of bail to the petitioners.

5.Taking into consideration of the facts and circumstances and the submissions made by the learned counsel and also considering the period of incarceration undergone 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 No.II, Erode, 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 petitioners shall report before the respondent police daily at 10:30 a.m for a period of two weeks and thereafter every Saturday at 10.30 a.m., until further orders.

(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 55601;

(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/-
29/07/2020

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.

[*]Amended as per the order of this court dated 01/09/2020 made in Crl.M.P.No.5182 of 2020 in crl.O.P.No.11122 of 2020.

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, ERODE

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

**[*]4 THE INSPECTOR OF POLICE,
RAILWAY POLICE STATION, ERODE,
ERODE DISTRICT.**

CC to M/S. P.SARAVANAN Advocate on payment of necessary charges

WEB COPY

CRL OP.11122/2020

Date :29/07/2020

RD 27/08/2020

RD 24/09/2020