

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.08.2020

CORAM :

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

Crl.O.P.No.11601 of 2020

Thangarasu

... Petitioner

-Vs-

The State Represented by its
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 on the file of the respondent police.

For Petitioner : Mr.P.Nagarajan

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

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested on 14.07.2020, for the offences punishable under Sections 147, 148, 324, 307 of IPC r/w 25(1A) of the Arms Act, in Crime No.1627 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the de facto 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 de facto complainant had questioned them, one among the unknown persons, who had come alongwith the named accused, attempted to inflict cut injury with the knife and the de facto complainant sustained cut injury on the left hip. The same person had further attempted to cut the de facto complainant and one Gurunathan, who is known to the de facto complainant intervened and attempted to save the de facto complainant and the same person inflicted cut injuries on Gurunathan and one Manogaran who as standing nearby. Fearing danger to life the de facto complainant rushed to his house and had taken out the singe barrel gun and fired towards the sky to scare the accused and on seeing that all the accused have run away from the scene

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would submit that the petitioner is a JCB operator, who was engaged by other accused for levelling the passage to the property and other than that, he has nothing to do with the alleged offence. He would further submit that the owner of the property one Kumar was arrested and he has been released on bail by this Court in CrI.O.P.No.11188 of 2020 on 31.07.2020. He would submit that the petitioner was arrested on 14.07.2020 and hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (CrI.side) appearing for the respondent vehemently opposed stating that the named accused along with 50 other hirelings attempted to illegally put up pathway to the land and when it was objected by the defacto complainant and his men, one of the hirelings engaged by the petitioner, attacked the de facto complainant and two other persons with knife causing cut injuries. The de facto 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 de facto 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.

5. 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 respondent Police everyday at 10.30 a.m for a period of two(2) weeks and thereafter, every Monday at 10.30.a.m until further orders;

(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/-
03/08/2020

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-I,
CHENGALPATTU.

2 THE CHIEF JUDICIAL MAGISTRATE
KANCHEEPURAM DISTRICT.[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
THIRUPORUR POLICE STATION,
KANCHEEPURAM DISTRICT.

5 THE SUPERINTENDENT,
SUB-JAIL, MADURANTHAGAM.

+1 CC to M/S.P.NAGARAJAN Advocate on payment of necessary
charges SR.NO 5837

CRL OP.11601/2020

Date :03/08/2020

GKS (TA) :05/08/2020