

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.Nos.11527 of 2020

1.Thiyagu
2.Rakesh
3.Saravanan
4.Francis
5.Kanagaraaj
6.Kalai @ Kaviyarasan

... Petitioners

Vs.

State, rep. by
The Inspector of Police
Vengal Police Station
Thiruvallur District
(Crime No.1556 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.1556 of 2020 pending on the file of the Respondent.

For Petitioners : Mr.R.Sasikumar

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 07.07.2020 for the offences punishable under Section 147, 148, 294(b), 323, 324, 506(ii) IPC, r/w Section 4, 3(1) of TNPPDL Act in Crime No.1556 of 2020, seek bail.

2. The case of the prosecution is that the petitioners along with other accused attempted to encroach the Government Poramboke land and when it was prevented by the opposition party, they have attacked the defacto complainant and his men and caused injuries and also caused damages to the vehicles belonging to the defacto complainant and his party.

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 further submit that it a case and case in counter, that the defacto complainant had attempted to encroach the Government property and when it was prevented by the petitioners, the defacto complainant and his men brutally assaulted the petitioners and other family members due to which the son of the 1st petitioner and the daughter of the 4th petitioner have sustained injuries. He would further submit that though the petitioners are the victims, a false case has been registered against these petitioners due to political influence and only after much pressure, the counter case came to be registered in Crime No.1557 of 2020 against the defacto complainant and his men and they were arrested and later released on bail. He would further submit that without prejudice to his defence, the petitioners are prepared to deposit some considerable amount to the credit of crime No.1556 of 2020 towards the damage and abide by any stringent conditions that to be imposed by this Court.

4.The learned Government Advocate (Crl. Side) would submit that the Al's wife is the President of local Panchayat. Al instigated some villagers to encroach the Government Poramboke land. At the instigation, some villagers including the 2nd petitioner encroached the land, knowing this fact, the defacto complainant also induced some other persons to encroach the Government land, when the same was questioned by Al and others, wordy quarrel arose and they have attacked the defacto complainant and his men with wooden log, due to which, three persons sustained injuries and one victim is still taking treatment in the Rajiv Gandhi Hospital, Chennai. The petitioners have also caused damages to the vehicles to the tune of Rs.3 lakhs. Hence, he vehemently opposes for the grant of bail to the petitioners.

5.Taking into consideration of the facts and circumstances and also considering the submissions made by the learned counsels, and also considering the fact that it is a case in counter, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are directed to deposit a sum of Rs.5,000/- (Rupees five thousand only) each, to the credit of Crime No1556 of 2020 and on such deposit, 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.I, Thiruvallur, 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 final order in respect of the said deposit shall be passed by the learned Trial Magistrate at the conclusion of trial.

(d) 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;

(e) the petitioners shall stay at Chengalpet and report before the Chengalpet Town Police Station everyday at 10:30 a.m and 5:30 p.m. until further orders. The petitioners shall not enter the jurisdiction limits of the respondent police.

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

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

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

(i) 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];

(j) 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.

सत्यमेव जयते

-sd/-

30/07/2020

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.1, THIRUVALLUR.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VENGAL POLICE STATION,
THIRUVALLUR DISTRICT.

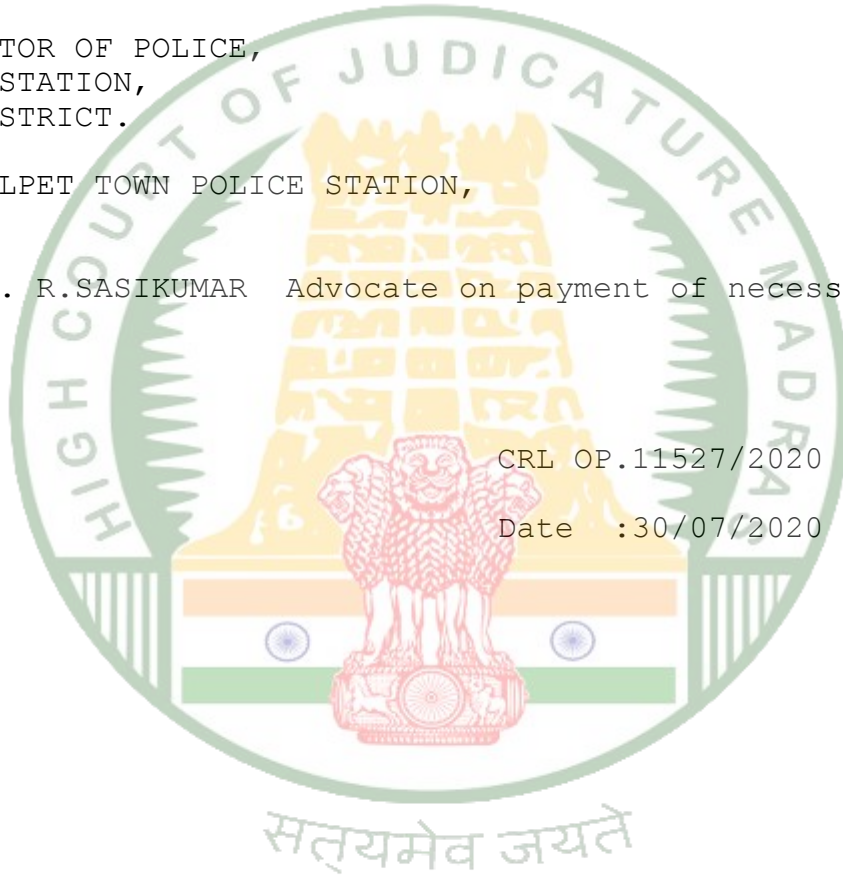
5 THE CHENGALPET TOWN POLICE STATION,
CHENGALPET.

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

CRL OP.11527/2020

Date :30/07/2020

cs 28/08/2020



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