

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.09.2020

CORAM :

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

Crl.O.P.No.13936 of 2020

1. Kamaraj, S/o. Govindaraj
 2. Elumalai, S/o. Govindaraj
 3. Anbu, S/o. Govindaraj
- ... Petitioners

Vs.

State By
Sub Inspector of Police
Kilpennathur Police Station
Thiruvannalamalai District
(Crime No.1863 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail as against the case pending on the file of the respondent police in Crime No.1863 of 2020.

For Petitioner : Mr.R. Balakrishnan
For Respondent : Mr.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 27.07.2020 for the offence punishable under Sections 147, 148, 294(b), 324, 307, 506(ii) IPC, in Crime No.1863 of 2020, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that there was previous enmity between the petitioners and the son-in-law of the defacto complainant and that on 24.07.2020, there was a problem between the son-in-law of the defacto complainant and person belonging to Kamaraj family. The persons belonging to Kamaraj family have assaulted the son-in-law of the defacto complainant and that he was admitted in Thiruvannamalai Government Hospital as in-patient and that he had also given a complaint. On 26.07.2020 the son-in-law of the defacto complainant was discharged from the hospital and he had come back home and on the same day viz., 26.07.2020, the petitioners have gone to the house of the defacto complainant and questioned him as to why he had given a complaint against them and had assaulted him once again

indiscriminately with knife and machetes due to which, the son-in-law of the defacto complainant sustained injuries on his right hand palm, right leg and left leg. Hence, the case.

3. The learned counsel appearing for the petitioners would submit that this is the second bail petition and this Court had earlier dismissed their bail application on 17.08.2020 in Crl.O.P.No.12390 of 2020. He would further submit that since the petitioners were granted bail in the earlier case, a false complaint has been given against them. He would further submit that the injured has been discharged from the hospital.

4. The learned Government Advocate (Crl. Side) would submit that two days prior to the scene of occurrence, the petitioners have assaulted the defacto complainant's son-in-law due to which, a complaint has been given against these petitioners and immediately after two days of his discharge, the petitioners had once again gone to the house of the defacto complainant and assaulted her son in law resulting in him sustaining serious injuries. He would further submit that the injured has been discharged from the hospital.

5. Taking into consideration of the facts and circumstances and the submissions made by the learned counsels and also considering the period of incarceration suffered by the petitioners from 27.07.2020, 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 petitioner have been confined and thereafter on his release.

(b) Thereafter, the petitioners shall within a period of two weeks from the date of commencement of the Court's normal functioning, execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, for the satisfaction of the learned Judicial Magistrate No.II, Thiruvannamalai, 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 on their release from prison, shall stay at Thiruvannamalai and report before the Thiruvannamalai Town Police Station everyday at 10.30 a.m and 5.30 p.m. until further orders. The petitioners shall not enter the jurisdictional limits of the respondent police.

(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 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/-

08/09/2020

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.II, THIRUVANNAMALAI

2 THE OFFICER INCHARGE
SUB-JAIL, THIRUVANNAMALAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 SUB INSPECTOR OF POLICE,
KILPENNATHUR POLICE STATION,
THIRUVANNAMALI DISTRICT.

5 THE OFFICER INCHARGE
THIRUVANNAMALAI TOWN POLICE STATION,
THIRUVANNAMALAI

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

CRL OP.13936/2020

Date :08/09/2020