

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.10.2020

CORAM :

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

CRL.O.P.No.15716 of 2020

KANDHAN

... Petitioner

Vs.

State rep by its Inspector of Police,
Devanampattinam Police Station,
Cuddalore District.
(Crime.No.163/2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in concern Cr.No.163 of 2020, on the file of the Inspector of Police, Devanampattinam Police Station, Cuddalore District.

For Petitioner : Mr.A.Arasu Ganeshan

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 02.08.2020 for the offences punishable under Sections 147, 148, 294(b), 427, 435, 448, 379, 436, 506(ii) of IPC and Under Section.4 of The Tamil Nadu Property (Prevention of damages & Loss) Act 1992, in Crime No.163 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the defacto complainant viz., Radha is that there was a rivalry between the two groups in the village on account of local body elections and due to which, there used to be frequent quarrel. Whiles, on 01.08.2020, the main accused, who are the persons from the same village formed an unlawful assembly and committed rioting and came to the house of the defacto complainant and her relatives and caused damages to their houses numbering to 35 and also household articles belonging to the defacto complainant like motor vehicles, boats and fishing nets and the value of the damage is assessed to Rs.3,50,41,250/-. Hence, the complaint.

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 submit that due to enmity regarding the local body election, one Madhivanan, who is a relative of the petitioner was murdered and in respect of which, a case was registered for the offence under Section 302 of IPC, in Crime

No.162/2020, on the complaint of one Masilamani and that there was agitation in the village. Further, in retaliation, there was some quarrel in the village and a false complaint has been given against the said Masilamani and others as if he along with the other accused formed into an unlawful assembly and committed the offence of rioting and caused damages to the houses. He would submit that the name of the petitioner does not find place in FIR and that due to the present complaint, the entire male members belonging to the family of the deceased in Crime No.162 of 2020, have been roped in this case. He would submit that the petitioner was arrested on 02.08.2020 and he is in custody for more than 73 days. He would submit that apart from this case, there is no previous cases pending against the petitioner and that apart from having lost one person in the family, the entire male members in the family are now kept in custody. Hence, he prays to grant bail to the petitioner.

4 The learned Government Advocate (Crl.Side) appearing for the petitioner would submit that it is a case of retaliatory attack. He would submit that one Mathivanan, relative of the petitioner was murdered and on the complaint given by one Masilamani, a case in Crime No. 162 of 2020 was registered for the offence under Sections 147, 148, 341, 294(b), 324 and 302 IPC. In retaliation, the petitioner and the other accused, belonging to rival group under the leadership of Masillamani caused rioting in the village and they have caused damage to the 35 houses and the house hold articles and also caused damage to the motor vehicles, boats and fishing nets belonging to the rival parties and the value of the damage is more then Rs.3.5 crores. He would further submit that tension still prevails in the village and that despite peace committee meeting conducted by RDO, no compromise has been arrived between the parties. He would further submit that the final report has been filed before the learned Judicial Magistrate No.II, Cuddalore and it has not been taken on file. Hence, he opposed to grant bail to the petitioner.

5 Taking into consideration the facts and submissions made by the learned counsels and the petitioner is in judicial custody from 02.08.2020, 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 a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Villupuram and on further conditions that:

(b) 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;

(c) the petitioner shall stay at Kanyakumari report before Kanyakumar police station everyday at 10.30 a.m., until further orders.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

13/10/2020

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, VILLUPURAM

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
DEVANAMPATTINAM POLICE STATION,
CUDDALORE DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

6 THE OFFICER INCHARGE,
KANYAKUMAR POLICE STATION,
KANYAKUMAR

CC to M/S.A.ARASU GANESHAN Advocate on payment of necessary
charges

CRL OP.15716/2020

Date :13/10/2020

RVR 14/10/2020



WEB COPY