

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.10.2020

CORAM :

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

CRL.O.P.No.16459 of 2020

1.Harun Basha
2.Akash

... Petitioners

Vs.

The State of Tamil Nadu,
Rep by Inspector of Police,
Tiruporur Police Station,
Chengalpattu District.
(Crime No.1698 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in connection with Crime No.1698 of 2020 on the file of the respondent.

For Petitioner : Mr.U.Gokulakrishnan

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

O R D E R

(The cases have been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 28.08.2020 for the offences punishable under Sections 3 and 25(1)(a) of ARMS Act and Section 5 of Explosive Substances Act, in Crime No.1698 of 2020 on the file of the respondent police, seek bail.

2.The case of the prosecution as per the defacto complainant Gopalakrishnan is that he is the Secretary of the Tandalam Village Panchayat and that on 28.08.2020, while he was returning from medical store, he heard loud noise and on search, he found that the petitioner and the other accused fell down from their two wheeler and a country bomb which they were having had exploded. Based on the complaint given by the defacto complainant, the petitioners were arrested.

3.The learned counsel appearing for the petitioner would submit that the petitioners are innocent and they have been falsely implicated in this case. He would submit that the petitioners were arrested on suspicion and remanded to the

judicial custody on 28.08.2020. Hence, he prays to grant bail to the petitioners.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioners along with other accused was found in possession of country bomb and knife and that in the place of occurrence they fell down from the two wheeler and the country bomb, which they carried, exploded, due to which, the petitioners sustained injuries. He would submit that one of the accused person had put the bag near Thiruporur Panchayat Union Office and that the investigation not yet completed. He would further submit that as far as these petitioners are concerned there is no previous case pending against them. However, he opposed to grant bail to the petitioners.

5.Heard the learned counsels on either side. Perused F.I.R and other materials placed on record.

6.Taking into consideration of the facts and circumstance of this case and also considering the fact that the petitioners are in jail from 28.08.2020, 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 a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Chengalpattu 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 petitioners shall report before respondent police everyday at 10.30 a.m., until further orders.

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

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

(f) 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.

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

-sd/-
29/10/2020

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.I,
CHENGALPATTU.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE JAILER,
DISTRICT PRISON,
CHENGALPATTU.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
THIRUPORUR POLICE STATION,
CHENGALPATTU DISTRICT.

+1CC to M/S.U.GOKULAKRISHNAN Advocate on payment of
necessary charges SR NO.7126

CRL OP.16459/2020

Date :29/10/2020