

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2020

CORAM :

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

Cr1.O.P.No.17413 of 2020

1.R.Perumal Samy
2.P.Jayapal
3.J.Lokesh

... Petitioners

Vs.

State. Rep. By
The Inspector of Police
T-15, Police Station
SRMC, Porur,
Chennai - 600 116.
(Crime No.963 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on anticipatory bail in Crime No.963 of 2020 pending investigation on the file of the respondent.

For Petitioners : Mr.R.N.Amarnath
For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor
For Intervenor : M/s. Ojas Law Firm

ORDER

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Section 149, 147, 148, 427, 447, 506(ii) of IPC, in Crime No.963 of 2020, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution as per the defacto complainant viz., Rajakumar, who is a Legal Officer of WS Industries (I) Ltd., Mount, Poonamallee Road, Porur, Chennai-116, is that the company is in possession of the property mentioned in Patta No.167 and the same has been restored by the Tahsildar, Maduravoyal on 18.03.2020 in pursuance of the Hon'ble Supreme Court order in Civil Appeal Nos.1318 of 2017 and 1319 of 2017 on 06.02.2020. While so, on 29.10.2020 at around 11.50 a.m., the accused along with the henchmen and goondas have trespassed into the factory site carrying sharp edged objects, stones, metal pipes and glass bottles. The further

allegation is that the accused asked the company security person to get out from the property and when it was resisted, they attempted to trespass into the company property and the said miscreants threatened the lives of the company security and neighbors near the site and attacked the security people and damaged the company gate and other bikes parked in the site. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioners are innocent and a false complaint has been foisted against them. He would further submit that mere reading of the FIR would go to show that it is a fabricated case. He would further submit that even as per the complaint, the alleged occurrence is stated to have taken at 11.50 a.m., whereas, the complaint is stated to have been registered at 11.50 a.m., on the same day. He would submit that distance from the place of occurrence and the station is about 4.5 km., and thereby, the incident could not have occurred.

4.He would further submit that the petitioners are the original owners of the property situated in Survey No. 70/1, to an extent of 5.70 acres and in Survey No.73/2 to an extent of 2.27 acres and land in Survey No.77 to an extent of 5.68 acres, totally admeasuring 13.65 acres comprised in Porur Village, Maduravoyal Taluk and it was purchased by one late Rajagopal, who is the father of the first petitioner from the original land owners viz. M/s.Singara Mudaliyar, Valliammal and Nainiyappa Naicker through a registered sale deed in Doc.No.1712/1929 dated 09.10.1929. The revenue records at the time of purchase of the above said lands till the updation of the revenue records under UDR, stood in the name of the said Rajagopal's vendors viz., M/s.Singara Mudaliyar, Valliammal and Nainiyappa Naicker. Out of the total extent of 13.65 acres of land and an extent of 13.11 acres of land was subjected to land acquisition proceedings under the Land Acquisition Act, 1984 and assigned it to a private industry by the Government. As the land was acquired without notice to the first petitioner and his vendors, the first petitioner filed a writ petition questioning the said acquisition in W.P.No.4941 of 2020 which is pending before this Court. He would further submit that the remaining extent of 60 cents of land comprised in Survey No.70/1 was subsequently subdivided as Survey No.70/2. Out of the said 60 cents of land, 6 cents of land was given for using as burial ground for Adi Dravidar Community and the same is also disclosed as the burial ground in the revenue records. The said 6 cents of land is given sub division as Survey No.70/2B and the remaining 54 cents of land is given sub division No.70/2A which is the subject property not covered by the Land Acquisition proceedings and as such the petitioners remain the owners of 54 cents of land in Survey No.70/2A, Porur Village, which were not covered in the land acquisition. The said land devolved on the first petitioner after the demise of his father Rajagopal. Subsequently, the first petitioner executed a settlement deed, settling the 54 cents of land in Survey No.70/2A in favour of his son, the second petitioner herein by way of registered settlement deed dated 31.03.2018 vide Doc.No.6180/2018. The revenue records were also muted and the patta was also issued in the name of the second petitioner under the Patta

Pass book Act, 1989. While so, the Tahsildar, Maduravoyal Taluk erroneously changed the patta in the name of WS Industries (I) Ltd, and granted regular patta with respect to the entire total extent of land viz. 13.71 acres of land including the 54 cents of land owned by the second petitioner and also the 6 cents of land which was allotted for the burial ground. The Said proceedings came to be challenged by the second petitioner in W.P.No.14933 of 2020 before this Court and this Court by order dated 16.10.2020 in W.M.P.No.18651 of 2020 in W.P.No.14933 of 2020, has passed an order of Status Quo and from thereon the petitioner was in possession of the same. While so, on 03.09.2020, some rowdy elements in the guise of advocates had entered into the property of the petitioner and destroyed 30 shops put up by the second petitioner and which was leased to the third parties in the name and style of J.P.S. Food Tech., with respect to the said incident, the petitioners have given a complaint whereas now a false complaint has been given as if the petitioners have attempted to trespass into the property and caused damage to the factory articles. The petitioners are innocents and the police is supporting the trespassers. Accordingly, he would seek for anticipatory bail.

5.The respondent police and the intervenor have filed detailed counters.

6.The learned Additional Public Prosecutor would vehemently oppose stating that the petitioners were never in possession of the property. He would further submit that the entire property including 54 cents claimed by the petitioners have been already acquired and that they were handed over to the company called M/s.WS Industries (I) Ltd and that the company was in the possession of the property. On 12.09.2015, the first petitioner had sent a notice to the company admitting that they were not in possession and they had sought to recover the possession. Thereafter, on a petition a patta proceedings was initiated under the UDR Scheme, subsequently, during the year 2015, the patta granted in the name of the company by a proceedings dated 28.12.2015, was cancelled. Thereafter, the company had filed a writ petition in W.P.No.1453 of 2016 and this Court had also granted Status Quo. While so, on 24.04.2016, some miscreants were entered into the factory premises and committed theft of materials, in respect of which a case was registered in Crime No.846 of 2016 against the unknown persons. He would further submit that in that case in Crime No.846 of 2016, the first and the second petitioners have obtained anticipatory bail. Thereafter, the writ petition filed by the company was allowed and the patta issued under UDR scheme in favour of the accused was cancelled and against that order, the first petitioner had preferred a writ appeal, which was decided in favour of the first petitioner on 22.12.2016. Against that order, the company had filed SLP.No.1998 of 2017 and even at the stage of admission, the Hon'ble Supreme Court by order dated 27.01.2017 had granted Status Quo. While the Status Quo was in force, the first petitioner had executed a settlement deed in favour of the second petitioner on 31.03.2018 and thereafter, once again the petitioners with the help of henchmen attempted to interfere in the possession of the company continuously, in respect of which, 3

cases have been registered in Crime Nos.321/2017, 323/2017 and 328/2017. Thereafter, the petitioners continuously attempted to interfere with the possession and in respect to which, a case in Crime No.321/2017 dated 21.02.2017 was registered against the petitioners.

7.The learned Additional Public Prosecutor would further submit that on an earlier occasion after the Status Quo order of the Hon'ble Supreme Court, the accused on 22.02.2017, attempted to interfere and to take possession illegally and they also caused damage to the properties in respect of which a case in Crime No.328/2017 had been registered against the accused. In that case, the accused attempted to enter into the company with bulldozer and other deadly weapons and also caused damage to the building and the canteen area of the company, in respect of which, a case in Crime No.328/2017 had been registered for the offences under Sections 147, 148, 447 of IPC and Section 3(1) of the PPDL Act. Once again on 01.03.2017, while the SLP was pending, the petitioners attempted to illegally grab the property belonging to the company by fabrication of documents in respect of which, a case in Crime No.8/2017 had been registered against the accused for the offences under Sections 120 (b), 465, 467, 468 and 471 of IPC and thereafter, 2 other cases have also been registered against the henchmen of the accused in Crime Nos.321/2017 and 323/2017. He would further submit that the accused who were not at all in possession had repeatedly indulged in these kinds of illegal activities. Though, this Court, by its order in W.P.No.1453 of 2016 had granted liberty to the petitioner to approach the competent civil forum to establish their rights, title and possession in respect of the said lands, the petitioners have been repeatedly taking law into their own hands and that they along with their henchmen are repeatedly creating problem and that there are several cases pending against them. He would further submit that the accused have no rights to interfere with the possession and they have even after the order of Status Quo passed by the Hon'ble Supreme Court and this Court with scant regard to court orders are repeatedly creating problem and attempting to usurp the properties belonging to the defacto complainant by force and he would oppose for the grant of anticipatory bail.

8.The learned counsel for the intervenor would submit that the lands in Survey No.70/1, to an extent of 5.70 acres and in Survey No.73/2 to an extent of 2.27 acres and land in Survey No.77 to an extent of 5.68 acres, totally admeasuring 13.65 acres comprised in Porur Village, Maduravoyal Taluk, were acquired by the Government and handed over to the company and the entire acquisition covers the 54 cents which has been now claimed by the accused. While the company was in possession, the petitioners/accused have sent a notice on 12.09.2015 to the company admitting that the company is in possession and enjoyment of 13.65 acres for several years and that in the said notice they had called upon the company to quit and deliver the vacant possession of the land measuring to an entire extent of 13.65 acres comprised in S.No.70/1, 73/2 and 77 of Porur Village, Maduravoyal Taluk, which was under the occupation of the company. Thereafter, on a petition filed by the accused the patta

proceedings were initiated and the District Revenue Officer, Thiruvallur, by an order dated 28.12.2015, had erroneously cancelled the patta granted in favour of the company. Against the cancellation of patta, the company had filed W.P.No.1453 of 2016, and the impugned order cancelling the patta granted to the company was set aside by this Court, by order dated 30.08.2016. He would further submit that right from the date of allotment by the Government, the company was in possession and only after the impugned order dated 28.12.2015 the accused who were not at all in possession till such time attempted to create problem by trespassing into the property. He would further submit that the petitioners/accused with the help of henchmen and hirelings have continuously interfered and created problem with the company, in respect of which, several cases have been registered against the petitioners/accused and their henchmen. He would further submit that after the writ petition was allowed in favour of the defacto complainant's company, the petitioners/accused have filed Writ Appeal No.1201 of 2016 and the same was decided against the company on 22.12.2015. Once again, the petitioners attempted to interfere into the possession and started creating problem. Meanwhile, the petitioners have filed SLP.No1998 of 2016 and the Hon'ble Supreme Court granted an order of Status Quo on 27.01.2017 subsequently the SLP was converted to Civil Appeal No.1318 of 2017 which has ended in favour of the defacto complainant/company, confirming the order passed by the learned single Judge in W.P.No.1453 of 2016. Thereafter, the defacto complainant's company was continuously in possession and enjoyment of the same and that the petitioner had repeatedly attempted to interfere with the property, in respect of which, several cases have been registered against them. Further, he would submit that while the case was pending before the Hon'ble Supreme Court, the accused had also filed a Caveat before the learned District Munsif Court, Poonamallee, wherein, they have also admitted that the petitioners are in possession of the entire land including 54 cents of the lands. He would further submit that when the proceedings were pending before the Hon'ble Supreme Court, the petitioners/accused had also filed a writ petition in W.P.No.30466 of 2019, seeking for Mandamus to grant temporary electricity service connection to them in respect of the property measuring to an extent of 54 cents in Survey No.70/2A, Porur Village, and this Court by an order dated 23.03.2020 had dismissed the application for service connection and in that order, this court had categorically held that the petitioners were not in possession of the property and further in the writ petition, the learned single Judge referring to the earlier order passed by this Court in W.P.No.1453 of 2016, dated 30.08.2016 had observed that the petitioners were not in possession and further referring to the earlier order directed that the petitioner has to necessarily approach the competent Civil Court to establish his rights, title and possession in respect of the property. Further this Court had also observed that the order of the single Judge was restored by the Hon'ble Supreme Court and that the Civil Appeal was allowed. He would further submit that this Court in W.P.No.30466 of 2019 had held that though the request made by the petitioner may look innocuous there is a grand plan behind the request and that it will have serious consequences on the rights of the company and a

categoric finding has been made that the petitioners/accused are not in possession and they are not entitled to claim the electricity connection. When such being the condition, the petitioners/accused, with scant regard to various orders passed by this court and the Hon'ble Apex Court along with hirelings in the guise of advocates attempted to trespass into the property and created a ruckus and also caused damages to the properties belonging to the company. He would further submit that the petitioners have no respect for law and that even when the Status quo order of the Hon'ble Supreme Court was pending, they have attempted to trespass into the property and take possession by force and it is not a single incident and the petitioners have been repeatedly indulging in such kind of offences taking law into their own hands using muscle power.

9.At this juncture, the learned counsel for the petitioner would submit that in respect of 3 cases against them, the petitioners are not an accused in two cases and their names do not find place in the FIR and also that in respect of dismissal of W.P.No.30466 of 2019 they have also filed writ appeal and a Miscellaneous Petition to condone the delay, is also pending before this Court. The learned counsel for the petitioner would further submit that the second petitioner had filed W.P.No.14933 of 2020 and the Tahsildar, Maduravoyal Taluk has filed counter and he has admitted that the petitioners are in possession of 54 cents of land and he would submit that this Court had also granted an order of Status Quo.

10.Per contra, the learned counsel for the intervenor would submit that nothing had been stated by the Tahsildar with regard to the possession of the property in the counter. Further, while everything had been decided and the matter has reached finality in favour of the company in Civil Appeal No.1318 of 2017 by the Hon'ble Supreme Court the counter of the Tahsildar cannot hold good. He would further submit that the Status Quo order filed by the petitioners at Page No.16 of the Additional typed set, pertains to some other W.P. and not W.P.No.14933 of 2020.

11.Heard the counsels perused the materials filed by all the parties.

12.It is a case, where the Government had acquired lands and handed over possession to the defacto complainant's company and that they have been continuously in possession thereon. Only during 2015, the first accused had sent a notice and even in that notice, the first accused had admitted that he is not in possession. However, subsequently, by proceedings of the DRO, Thiruvallur dated 28.12.2015, the patta granted in favour of the company had been cancelled and only thereafter, the accused had started interfering in the possession of the company. However, the proceedings of DRO, Thiruvallur dated 28.12.2015 had been set aside by the order of this Court, by order dated 30.08.2016 in W.P.No.1453 of 2016 wherein, this Court had categorically observed that the first petitioner is at liberty to approach the competent civil forum to establish his

rights, title and possession, in respect of the properties claimed by him. Thereafter, the Writ Appeal was filed by the first petitioner, against which, the defacto complainant company had filed SLP and while the Status Quo was pending, the petitioners have once again attempted to trespass into the property and created ruckus and also caused damage to the factory's property.

13.It is seen that the petitioners are habituated to take law into their own hands without any respect to the orders of this Court and the Hon'ble Apex Court. Though, this court had granted liberty to the petitioners to approach the Civil Court, the petitioners have intended to create problems repeatedly and had attempted to grab the property by taking law into their own hands by force. Further the Status Quo order filed by the petitioners/accused at Page No.16 of the Additional Typed Set of papers is not in respect of W.P.No.14933 of 2020. This Court is able to see that an attempt has been made to mislead this Court.

14.In view of the above facts and circumstances and that the the petitioners/accused are repeatedly indulging in illegal activities taking law into their own hands with utter disregard to various orders of the Courts, this Court is not inclined to grant anticipatory bail to the petitioners.

15.This Criminal Original Petition stands dismissed accordingly.

-sd/-

21/12/2020

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 INSPECTOR OF POLICE,
T-15 POLICE STATION,
SRMC PORUR,
CHENNAI-600 116.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S. R.N.AMARNATH Advocate on payment of necessary charges SR.NO.8709

CRL OP.17413/2020

Date :21/12/2020

TA-04/01/2021

<https://hcservices.ecourts.gov.in/hcservices/>