

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2020

CORAM

THE HONOURABLE MR.JUSTICE. M.NIRMAL KUMAR

Crl.O.P.No.18788 of 2020

G.Arumugam

... Petitioner

Vs.

State Represented by ... Respondent
The Sub Inspector of Police,
Vanaburam Police Station,
Tiruvannamalai District.
(Crime No.2847 of 2020)

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C, to enlarge the petitioner on bail pending investigation in Crime No.2847 of 2020 on the file of the respondent police.

For Petitioner : Mr.M.Krishna Moorthy

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

ORDER

This case has been heard through video conference

The petitioner who was arrested and remanded to judicial custody on 11.11.2020 for the offence punishable under Sections 341, 294 (b), 324 and 307 of IPC, in Crime No. 2847 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner and the defacto complainant are adjacent land owners. The petitioner along with others are using the Government Poramboke land as path way, which was objected to by the de facto complainant. Consequently, the petitioner and others have assaulted the defacto complainant with Koduval and iron rod on both his shoulders, as a result of which, he sustained injuries. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the defacto complainant are adjacent land owners and the petitioner is enjoying the Government Poramboke land. The defacto complainant was objecting to the same and he wanted to take over the land which is in the enjoyment and the occupation of the petitioner and was always creating problems for the petitioner. On 10.11.2020, the defacto complainant had picked

up a quarrel and assaulted the petitioner and others working in the field. Hence, there was a dispute between them. The petitioner had also assaulted the defacto complainant and therefore, the defacto complainant sustained injuries. He would further submit that the defacto complainant has been discharged from the hospital after taking treatment on 25.11.2020. Hence, he seeks bail.

4. The learned Government Advocate (Crl.Side) would submit that there are totally four accused apart from this petitioner. A2 and A4 are absconding and this petitioner is occupying the Government poramboke land and carrying out agricultural activities. The defacto complainant has to pass through the petitioner's land to reach his land. The defacto complainant objected to the petitioner carrying on agricultural activities in Government poramboke land. Hence, there was a dispute between the defacto complainant and the petitioner. When it was questioned by the defacto complainant, the petitioner along with others had assaulted the defacto complainant using iron rod and Koduval on both his shoulders and hands. The defacto complainant took treatment in the Government Hospital as an in patient. Hence, he vehemently opposed for grant of bail to the petitioner.

5. Taking into consideration the nature of allegations against the petitioner in the FIR and also taking note of the nature of the offence and also the fact that the dispute between the petitioner and the defacto complainant with regard to the usage of agricultural land and further the counter case lodged by the petitioner in Cr.No.2848 of 2020 and also the victim has been discharged from the hospital, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(a) the petitioner is ordered to be released on bail and he shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, with two sureties before learned Judicial Magistrate-I, Tiruvannamalai.

(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 report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required.

(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;

(g) 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 had 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]**;

(h) 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/-
01/12/2020

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 JUDICIAL MAGISTRATE,
NO.I, TIRUVANNAMALAI.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB-INSPECTOR OF POLICE,
VANABURAM POLICE STATION,
TIRUVANNAMALAI DISTRICT.

5 THE OFFICER INCHARGE,
POLUR SUB-JAIL,
THIRUVANNAMALAI.

+1 CC to M/S.M.KRISHNAMOORTHY Advocate on payment of necessary charges SR.NO.7853

CRL OP.18788/2020

Date :01/12/2020

TA-02/12/2020