

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.19733 of 2020

1.J.Arul Kumar

2.J.Sengodan

... Petitioners/Accused 1 and 2

Vs.

The Inspector of Police
Sooramangalam Police Station
Salem District
Crime No.1550 of 2020

... Respondent

Prayer: Criminal Original Petitions are filed under Section 439 Cr.P.C. to enlarge the petitioners on bail in Crime No.1550 of 2020 on the file of the respondent police.

For Petitioner : M/s.Karan and Uday

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

ORDER

(These cases have been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 20.11.2020 for the offences punishable under Sections 294(b), 324, 307 and 506(ii) IPC in Crime No.1550 of 2020, on the file of the respondent police, seek bail.

2.The case of the prosecution as per the defacto complainant Suresh Kumar is that the defacto complainant and the accused are relatives and there was a land dispute between his family and the family of the accused. On 19.11.2020, the accused had laid a road in the common land without obtaining permission from the defacto complainant. When it was questioned by the defacto complainant, the accused assaulted him with iron rod on the right side of his head and caused injuries.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocents and they have been falsely implicated in this case due to previous enmity. He would submit that at the time of admission before the hospital, the defacto complainant has stated that he was assaulted by four unknown persons. Thereafter, relatedly, a false complaint has been given implicating the

petitioners which clearly shows that the complaint itself is a motivated one due to previous enmity in respect of land dispute. He would further submit that the alleged victim has been discharged from the hospital on 26.11.2020 and there is no previous case against the petitioners and they have been suffering incarceration from 20.11.2020. Hence, he prays for grant of bail.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that due to land dispute, the petitioners assaulted the defacto complainant with iron rod due to which, he sustained injuries in the right side of the head. He would further submit that the injured has been discharged from the hospital and there is no previous case against the petitioners and that the investigation is pending.

5.Taking into consideration of the facts and submissions made by the learned counsels and the fact that the injured have been discharged from the hospital and there is no previous case against the petitioners and also considering the period of incarceration suffered by the petitioners from 20.11.2020, 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) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate-II, Salem, 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 on their release from prison, shall stay at Kallakurichi and report before the Town Police Station, everyday at 10.30 a.m. until further orders. The petitioners shall not enter into the jurisdictional limits of the respondent police 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;

(g) 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

(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/-
14/12/2020

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.II, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE JAILER
SUB JAIL, ATTUR.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
SOORAMANGALAM POLICE STATION,
SALEM.

6 THE OFFICER INCHARGE
TOWN POLICE STATION,
KALLAKURICHI.

+1 CC to M/S.KARAN AND UDAY Advocate on payment of necessary charges SR.No.8190

CRL OP.19733/2020

Date :14/12/2020

cs 15/12/2020