



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 30/01/2020

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD) . No.1623 of 2020

1.Easwaramoorthy
2.Katturaja @ Karthik
3.Murugesan
4.Arunakiri

... Petitioners/Accused
Nos.1 to 4

Vs

The State rep.by
The Inspector of Police,
Paramakudi Town Police Station,
Paramakudi,Ramnad District.
Crime No.18/2020.

... Respondent/Complainant

For Petitioners : M/s.D.Sasikumar,
Advocate.

For Respondent : Mr.A.Robinson,
Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

for bail in Crime No.18 of 2020 on the file of the respondent police

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioners and the learned Government Advocate(Crl. Side) appearing for the respondent.

2. The petitioners are in custody since 18.01.2020 for the offences under Sections 147, 294(b), 332, 353, 323 and 506(i) of I.P.C., Section 4 of Tamilnadu Prohibition of Harassment of Women Act and Section 3 of Tamilnadu Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to the property) Act, 2008 in Crime No.18 of 2020 on the file of the respondent police. Hence, they seek bail.



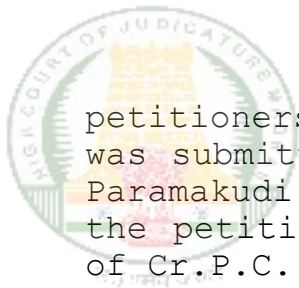
3. The case of the prosecution is that the mother of the first petitioner was admitted in Government Hospital, Paramakudi for treatment and the petitioners expressed their grievances with regard to the manner of treatment and created a big ruckus. The petitioners also said to have assaulted the hospital staff and also damaged equipments to the tune of Rs.25,000/-. In this record Crime No.18 of 2020 was registered for the offences under Sections 147, 294(b), 332, 353, 323 and 506(i) of I.P.C., Section 4 of Tamilnadu Prohibition of Harassment of Women Act and Section 3 of Tamilnadu Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to the property) Act, 2008.

4. The petitioners' counsel submitted that wordy quarrel arose between the hospital staff and the petitioners herein since proper treatment was not given and the hospital staff misbehaved. The petitioners' counsel drew my attention to the copy of the complaint dated 21.01.2020 addressed by Panchavarnam wife of the fourth petitioner/ Arunakiri to the Director of Medicare Services, Chennai. I made it clear at the very out set that the Doctors and medical staff working in various government hospitals and para primary health centres ought to have a safe and secure environment and they cannot be threatened with acts of violence by the aggrieved patients or their attendants or their relatives. In fact, taking note of the growing incidents of violence, the Government of Tamilnadu brought in Act No.48 of 2008. Section 3 of the said Act provides for minimum punishment of three years which may extend to ten years for those committing or attempting to commit the acts of violence in a medical service institution.

5. Therefore, the acts alleged to have been committed by the petitioners herein will have to be viewed seriously. The petitioners' counsel submitted that the petitioners without prejudice to their defence in the trial will withdraw the complaint dated 21.01.2020 given by Panchavarnam to the Director of Medical Services, Chennai. This undertaking given by the petitioners' counsel on instructions is placed on record.

6. The petitioners also agree to remit a sum of Rs.10,000/- to the credit of Crime No.18 of 2020 before the Jurisdictional Magistrate. This will be a non-refundable deposit. Of course, this is without prejudice to their defence in the criminal trial.

7. A further question arises for consideration. The petitioners soon after their arrest moved the learned Judicial Magistrate, Paramakudi on 24.01.2010. It is seen that the learned Magistrate returned the bail petition on the ground that it is only Sessions Judge, who will be competent to grant bail to the petitioners. The petitioners moved thereafter the Sessions Judge. The Sessions Judge returned the bail petition directing the



petitioners to move the Trial Magistrate. When the bail petition was submitted for the second time, the learned Judicial Magistrate, Paramakudi returned the bail petition. Left with no other option, the petitioners herein moved this Court for bail under Section 439 of Cr.P.C.

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8. Section 3 of Act No.48 of 2008 of the Tamilnadu Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to the property) Act, 2008 , reads as under:-

3. Any person either by himself or as a member or as a leader of a group of persons or organisation, commits or attempts to commit or abets or incites the commission of any act of violence shall be punished with imprisonment for a term which shall not be less than three years but which may extend to ten years and with fine.

9. Section 4 of Act No.48 of 2008 of the Tamilnadu Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to the property) Act, 2008 , reads as under:-

Any offence committed under Section 3, shall be cognizable and non bailable.

10. It is no where stated that the offence under the said Act is triable by the Sessions Court. Merely because the minimum term of imprisonment of three years which may extend upto 10 years has been prescribed in Section 3 of the Act that will not be by itself make it a sessions offence. For instance, Section 467 of I.P.C., provides for imprisonment for life or imprisonment for ten years and fine, it is triable by the Magistrate. Therefore, the learned Judicial Magistrate, Paramakudi was not correct in declining to entertain the petition for bail. It is all the more so because the learned Sessions Judge has specifically returned the bail petition filed by the petitioners on the ground that the petitioners have to move the trial Magistrate. Therefore I hold that the learned Judicial Magistrate, Paramakudi was not correct in returning the petitioner's bail petition.

11. I hope that the petitioners have learned their lessons well. The continued incarceration of the petitioners in not going to serve any purpose. The petitioners give a specific undertaking that they will keep away from the persons mentioned in the FIR. If the petitioners threaten any of them, this Court will take serious view of the matter and will not hesitate to grant the bail now granted to them.

12. Recording the petitioners' undertaking, I am inclined to enlarge the petitioners on bail with certain conditions. Accordingly, the petitioners are ordered to be released on bail, subject to the following conditions;

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



(i) the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two common sureties, each for a like sum to the satisfaction of the Judicial Magistrate, Paramakudi, Ramanathaapuram District.

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(ii) the petitioners are directed to appear before the respondent police as and when required for the interrogation.

(iii) on breach of any of the aforesaid conditions, the learned 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].

sd/-
30/01/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1.THE JUDICIAL MAGISTRATE,
PARAMAKUDI, RAMANATHAAPURAM DISTRICT.
- 2.DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
- 3.THE INSPECTOR OF POLICE,
PARAMAKUDI TOWN POLICE STATION,
PARAMAKUDI, RAMNAD DISTRICT.
- 4.THE OFFICER INCHARGE,
SUB JAIL, MUDUKULATHOOR.
- 5.THE OFFICER INCHARGE,
SUB JAIL, RAMANATHAPURAM.
- 6.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.D.SASIKUMAR Advocate SR.No.1843

ORDER
IN
CRL OP(MD) No.1623 of 2020
Date :30/01/2020

IAS
TK/PN/SAR.3/30.01.2020/4P/8C