



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

Date : 10/11/2020

PRESENT

The Hon`ble Mr.Justice S.M.SUBRAMANIAM

CRL OP(MD) . No.12206 of 2020

1. A.Hari @ Hariharan
2. A.Manisankar
3. M.Ponnarasu
4. Muthuraj
5. Mariappan

... Petitioners/Accused Nos.1 to 5

Vs

The State Rep.by,
The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City.
(Crime No.1510 of 2020.

... Respondent/Complainant

A.Piramayagam ... Petitioner/Intervener/Defacto Complainant
in Crl.MP(MD)No.5799/2020 in Crl.OP(MD)No.12206/2020

For Petitioners: M/s.R.Kannan,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

For Intervenor : Mr.L.Shaji Chellan for MR.B.ASHOK
Advocate.

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

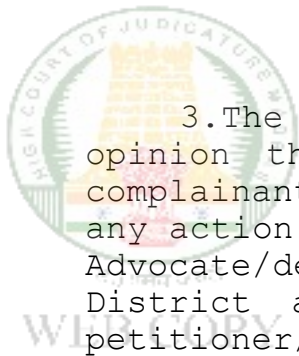
PRAYER :-

For Bail in Crime No.1510 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 to A5 , who were arrested and remanded to judicial custody on 23.10.2020 for the offences punishable under Sections 147, 294 (b), 323, 342, 324, 427, 307, 355 and 506 (ii) of IPC on the file of the respondent police seek bail.

2.The learned counsel appearing for the petitioner articulated his case he is an excellent manner in support of the petitioners/accused by stating that it is a fit case for grant of bail.



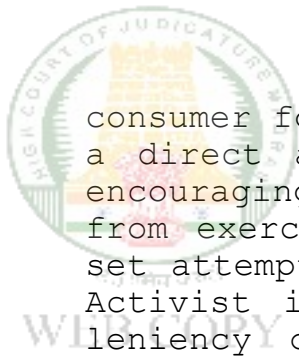
3.The learned counsel appearing for the petitioner is of the opinion that counter case is already filed against the defacto complainant in this case and the respondent police has not initiated any action against the Advocate, who is the defacto complainant. The Advocate/defacto complainant is a legal practitioner at Tirunelveli District and he came to the restaurant belongs to the first petitioner/first accused and there was a wordy quarrel between the employees as well as the defacto complainant/Advocate, which resulted in commission of crime.

4.The learned counsel appearing for the petitioner reiterated that the petitioners are languishing in jail from 23.10.2020 and the petitioners are ready to abide by any condition in the even of granting bail by this Court.

5.The learned Government Advocate (Crl.Side) appearing on behalf of the respondent police objected by the petition by stating that the investigations are actively in progress, in view of the fact that ten more accused persons are absconding. Though, those absconding persons are the employees of the first petitioner, the respondent police are finding it difficult to get their identity. However, in the event of releasing these petitioners on bail, there is a possibility of tampering the evidences and witnesses, as the first petitioner is the owner of the hotel and an influential rich person in the Society. The first petitioner's hotel is reputed commercial establishment and many number of employees are working under him. Thus arresting of other absconding accused are also vital for the investigation and under these circumstances, it is not preferable to release the petitioners on bail.

6.The learned counsel appearing on behalf of the defacto complainant/Intervener raised an objection on the ground that the defacto complainant is RTI, Consumer activist and filing number of cases in the interest of public at large, regarding certain deficiencies in service. The Dfacto complainant registered a complaint against the petitioner's establishment. On account of such motive, the crime was committed and the defacto complainant was brutally attacked by the accused persons and he sustained grievous injuries and the defacto complainant undergone treatment in the Hospital and discharged. More specifically, the defacto complainant was attacked by the accused persons, when he was sitting inside the restaurant which belongs to the first petitioner. The defacto complainant is a legal practitioner and was attacked on account of the fact that he filed a complaint before the consumer Court against the first petitioner's establishment.

7.This Court is of the considered opinion that protection for the legal performance of the professional is paramount importance. Performing the profession by an individual is a constitutional right and such right must be free and there cannot be any intervention. The first petitioner is attacked on filing a complaint before the



consumer forum, such offence ought to be viewed seriously, as it is, a direct attack on the freedom of profession. In the event of encouraging such offenders, the right of professionals are prevented from exercising their right of freedom of professions. Thus mind set attempted to cripple activities of the consumer activist or RTI Activist is to be dealt with iron hand and there cannot be any leniency or misplaced sympathy. The RTI activist or consumer activist has got certain social interest and if their actions are in the interest of the public and on genuine grounds, undoubtedly require a protection and in the event of any attack against such persons immediate actions are highly warranted.

8.The prima facie facts and the allegations put forth by the parties are to be considered to arrive at a reasonable conclusion, whether, the petitioners are entitled for grant of bail or not. Though bail is a rule ; denial is exception ; the Courts are bound to consider the over all facts and circumstances as well as the likelihood of events.

9.In the of case on hand, many accused persons had involved in the occurrence and many of them are the employees of the hotel and the first accused is the owner. The defacto complainant was attacked while he was in the restaurant belongs to the first petitioner. The said factors are important and it is brought to the notice of this Court that some of the accused persons are absconding and the investigations are in progress and intensify. Thus it is not preferable to consider the bail application. In view of the fact that the first petitioner is an influential person and the owner of the hotel, there is a likelihood of tampering the evidences and witnesses. This being the factum, the respondent police must be conduct free and fair investigation and arrest the absconding accused in order to expedite the case.

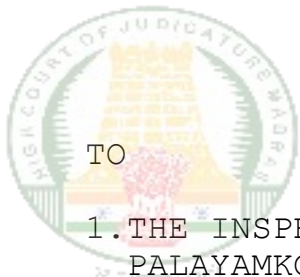
10.In this view of the matter, this criminal original petition stands dismissed.

sd/-
10/11/2020

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



TO

1. THE INSPECTOR OF POLICE,
PALAYAMKOTTAI POLICE STATION,
TIRUNELVELI CITY.
2. THE OFFICER INCHARGE, SUB JAIL,
SRIVAICKUNDAM, TIRUNELVELI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to MR.B.ASHOK Advocate SR.No.7478

ORDER

IN

CRL OP(MD) No.12206 of 2020

Date :10/11/2020

DSS/VSG

PK/AKM/SAR-IV/24.11.2020 : 4P/5C