

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Cr1.O.P.No.475 of 2021

Raja @ Sundararaj

... Petitioner

Vs.

The Sub Inspector of Police,
Attur Rural Police Station,
Salem District.
(Crime No.221 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest in Crime No.221 of 2020 on the file of the Inspector of Police, Attur Rural Police Station, Salem District.

For Petitioner : Mr.S. Muthukrishnan

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who apprehends arrest for the alleged offence under Sections 143, 294(b), 323, 427, 447, 353 and Section 3 of TN Public property (prevision of Damage and Loss) Act, 1992, in Crime No.221 of 2020, on the file of the respondent Police, seeks anticipatory bail.

2. Totally there are 15 accused and the petitioner is A14. The complainant is a forest range officer from Attur Range and the allegation is that nearly 100 agriculturist lead by one Gunasekar entered into a reserve forest with a heavy earth movers to construct trench in the reserve forest and the forest officer prevented them to construct the trench. The occurrence has taken place on 20.12.2019 for which the complaint was given on the next day 21.12.2019 and that complaint has been kept as C.S.R and finally the crime was registered after five months.

3.The learned counsel for the petitioner would submit that all the accused persons are agriculturalists and they are seeking protection from forest animals entering into their agricultural lands

and causing damages. He would further submit that the agriculturalist have earlier made a request to put up a fence and as the same was not considered hence, they have decided to enter into the reserve forest and that was forcibly prevented by the forest officers. Thereafter, all the agriculturalists lead by one Gunasekaran went to fight met the forest officers to construct the trench. It is also stated that two earlier F.I.Rs has been registered against him on 14.05.2020 and 20.05.2020 and subsequently the present complaint has been registered, wherein the petitioner is arrayed as A14 and A13 is Gunasekaran. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor opposed the Anticipatory bail application stating that all the 100 people entered into the reserve forest asking the forest officer to construct a trench and they pull down the forest officer. He would further submit in the F.I.R No.218 of 2010 dated 20.05.2020 it is alleged that the petitioner/ A14 along with A1/Gunasekaran have encroached the defacto complainant's land and abused and also threatened him.

5. I have considered the rival submissions. The occurrence has said to have taken place on 20.12.2019, and the allegation was that more than 100 people entered into the reserve forest and caused damages and try to assault forest officials. Even though, the allegations are serious, the police kept it pending for 5 months and thereafter registered the F.I.R that too after receiving two more F.I.Rs. That apart no materials have been placed before this Court to show that any enquiry was conducted and statements were recorded or any witnesses to prima facie show that the petitioner actually involved in this crime.

6. Considering the facts and circumstances of the case and there is no materials available on record to show that the petitioner involved in the crime, this court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.1, Attur on condition that the petitioner shall execute a 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which this petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix his photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent Police as and when required for interrogation.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have 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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-
15/02/2021

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, ATTUR.

2 THE CHIEF JUDICIAL MAGISTRATE,
SALEM [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR, सत्यमेव जयते
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
ATTUR RURAL POLICE STATION,
SALEM DISTRICT.

CC to M/S.S.MUTHUKRISHNAN Advocate on payment of necessary charges

CRL OP.475/2021

Date :15/02/2021

EP-17/03/2021