

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.3265 of 2021

and Crl.M.P.No.2411 of 2021

1. N.Rajesh ... Petitioners
2. N.Chengalvarayan
3. N.Masthan
4. C.Srinivasan @ Adiyodan

Vs.

The State Rep. by ... Respondent
The Inspector of Police,
Arambakkam Police Station
Gummidipoondi Taluk,
Tiruvallur District.-601 201.
Crime No.24 of 2021.

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of his arrest in Crime No.24 of 2021 pending investigation on the file of the Respondent.

For Petitioners : Mr.R.Munuswamy

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

For Intervener : Mr.M.Anuradha

ORDER

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of respondent police for the offence punishable under Sections 147, 148, 427, 447, 506(1) and 109 of I.P.C. r/w Section 3(1) of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992, in Crime No.24 of 2021, seeks bail.

2. Totally, there are 20 accused and the petitioners are arrayed as A2, A3, A4 and A6 The case of prosecution is that the defacto complainant claiming to be the owner of mango grove in Survey No.85/2, in Poovalai Village, Gummidipoondi taluk, Tiruvallur District, had put up a fence. All the accused belongs to the same

village. On 24.01.2021, all the accused along with other villagers entered into the field of the defacto complainant and damaged the barbed wire fence and also the mango trees. Hence, a complaint came to be registered for the offence as stated and now, apprehending arrest, the present petition has been filed.

3. The learned counsel appearing for petitioners would submit that the land in Survey No.85/2 is an anadinam land and it is in the occupation of the defacto complainant and a fence has been put up around the land. That apart, in another Survey No.106, which is classified as burial ground was also in the occupation of the defacto complainant. Hence, there was agitation for long time. He would submit that the other accused persons have approached this court by filing a Writ Petition and the revenue authorities have also now started taking action under the Tamil Nadu Land Encroachment Act. Being aggrieved over the same, various complaints have been filed by the defacto complainant against the accused persons that they have damaged the fence. At the time of occurrence, the petitioners were not present at the scene of occurrence. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned counsel appearing for intervenor/defacto complainant would submit that the fencing was put up in the patta land, which is no way connected with the adhinam land in Survey No.85/1 and the land in Survey No.106 is classified as sarkar poramboke and now reclassified as burial ground. The petitioners have deliberately damaged the fencing put up in the patta land of the petitioners and they have also damaged the standing mango trees.

5. The learned Additional Public Prosecutor appearing for the respondent would oppose this petition on the ground that there is a long standing dispute between the petitioners and the defacto complainant regarding the use of land and on the date of occurrence, all the accused damaged the fence and also damaged trees. Hence, the complaint has been registered.

6. On perusal of records, it could be seen that Survey No.85/2 has been classified as anadinam land and now proceedings have also been initiated by the Tahsildar under the Tamil Nadu Land Encroachment Act against the defacto complainant. That apart, the land in Survey No.106 is also classified as sarkar poramboke and now reclassified as burial ground. It is also seen from the records that there are lot of litigations pending between the parties and writ petitions were also filed before this Court and now various proceedings also pending before the revenue authorities.

7. Taking into consideration of the fact that, all the accused claiming that the defacto complainant put up the fence and prevented them from reaching the burial ground and their lands, and considering the fact that there are many civil disputes and litigations pending between the parties, there is no previous antecedents against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners, subject to the following conditions:

a) Accordingly, the petitioners are ordered to be released on bail, in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before **the learned District Munsif cum Judicial Magistrate, Gummidipoondi** on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties, 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, and on further condition that:

[b] the sureties shall affix their 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;

[c] the petitioners shall appear before the respondent police as and when required for interrogation;

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioners shall not abscond either during investigation or trial;

[f] 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]**;

[g] 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/-
03/03/2021

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 DISTRICT MUNSIF CUM JUDICIAL
MAGISTRATE, GUMMIDIPOONDI.

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

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ARAMBAKKAM POLICE STATION,
GUMMIDIPOONDI TALUK,
TIRUVALLUR DISTRICT.

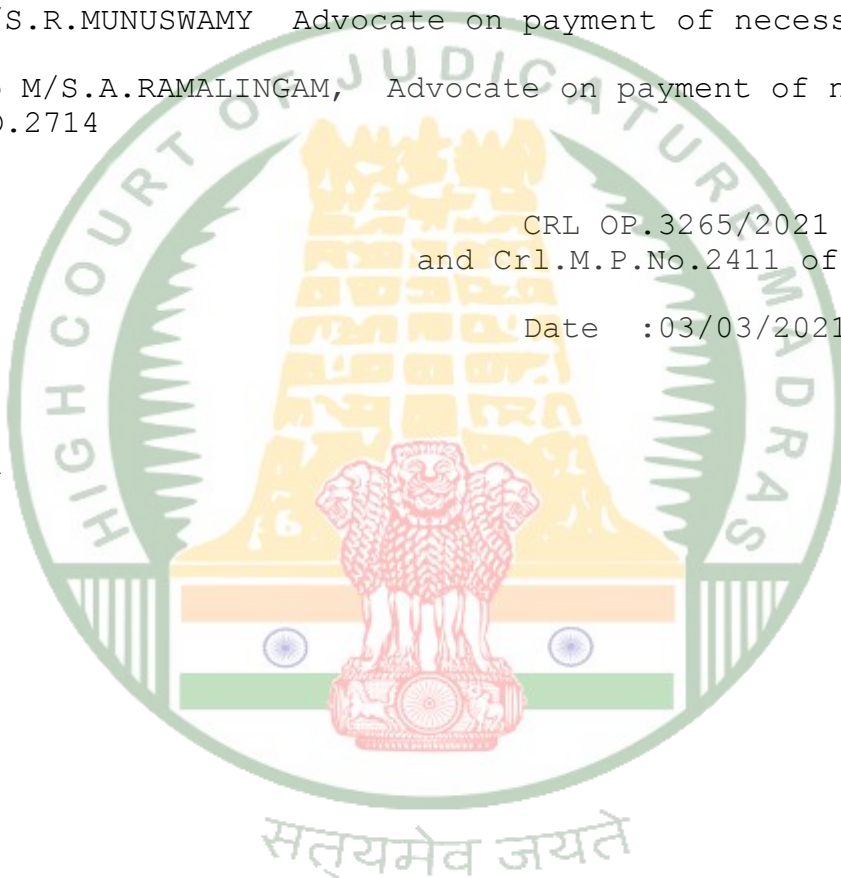
CC to M/S.R.MUNUSWAMY Advocate on payment of necessary charges

+1 CC to M/S.A.RAMALINGAM, Advocate on payment of necessary
charges SR.NO.2714

CRL OP.3265/2021
and Crl.M.P.No.2411 of 2021

Date :03/03/2021

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