

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P.No.3223 of 2021

and Crl.M.P.No.2163 of 2021

1. J.Arul
2. N.Munirathinam

... Petitioners

Vs.

State represented by
Inspector of Police,
Arambakkam Town Police Station,
Gummidipoondi Taluk,
Tiruvallur District - 601 201.
(Crime No.24 of 2021)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioners on bail in respect of Crime No.24 of 2021 on the file of the respondent.

For Petitioners : Mr.A.Munuswamy

For Respondent : Ms.M.Prabhavathi
Addl. Public Prosecutor

For Intervenor : Mr.A.Ramalingam

सत्यमेव जयते
ORDER

(The case has been heard through video conference)

The Petitioners, who were arrested and remanded to judicial custody on 28.01.2021, for the offence punishable under Sections 147, 148, 427, 447, 506(i) and 109 of IPC in Crime No.24 of 2021, seeks bail.

2. Totally there are 20 accused and the petitioners are arrayed as A1 and A5. The case of the prosecution is that the defacto complainant claiming to be the owner of the mango grove in Survey No.85/2 in Poovalai Village, Gumidipoondi Taluk, Tiruvallur District has 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 above and the petitioners were arrested on 28.01.2021.

3. The learned counsel appearing for the petitioners would submit that the land in Survey No.85/2 is an adhinam 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. The petitioners have approached this Court by filing 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 complainants have been filed by the defacto complainant against the petitioners 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 bail.

4. The learned counsel appearing for the intervenor/defacto complainant would submit that patta has been issued in his name and he is in possession and enjoyment of the said property and he has also planted mango trees therein. All the accused forcefully entered into the field and damaged the fence and caused damage to the mango trees.

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

6. I have considered the above submissions.

7. Perusal of the records, it could be seen that Survey No.85/2 has been classified as adhinam 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 were also pending before the revenue authorities.

8. Considering 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, 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 bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate,

Gummidipoondi, 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 shall report before the respondent police as and when required for interrogation.

(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 5560];

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

9. With the above directions, this Criminal Original Petition is ordered. Consequently, the connected miscellaneous petition is closed.

-sd/-
26/02/2021

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, GUMMIDIPOONDI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

4 THE INSPECTOR OF POLICE,
ARAMBAKKAM POLICE STATION,
GUMMIDIPOONDI TALUK,
TIRUVALLUR DISTRICT-601 201.

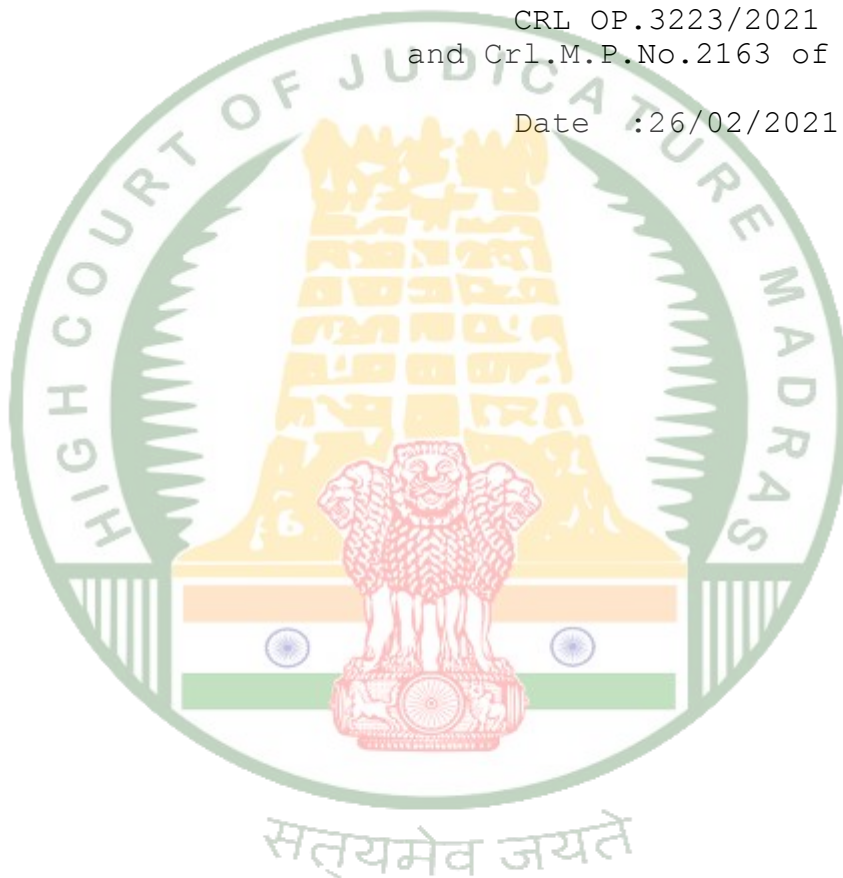
5 THE OFFICER INCHARGE
SUB JAIL, KANCHEEPURAM.

+2 CC to M/S.R.MUNUSWAMY Advocate on payment of necessary
charges SR.NO.2448

CRL OP.3223/2021
and Crl.M.P.No.2163 of 2021

Date :26/02/2021

TA-01/03/2021



WEB COPY