

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.4280 of 2021

B.Prabakaran

... Petitioner

Vs.

The State rep.by
Inspector of Police
Arambakkam Police Station
Gummidipoondi Taluk
Tiruvallur District.
Crime No.24 of 2021.

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with case in Cr.No.24 of 2021 on the file of the respondent Police.

For Petitioner : Mr.K.Rajasekaran

For Respondent : Mrs.M. Prabhavathi,
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 15.02.2021 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 petitioner name was not found in the F.I.R. 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 the petitioner was arrested on 15.02.2021.

3. The learned counsel appearing for petitioner 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 petitioner was not present at the scene of occurrence and his name was also not found in the F.I.R. Hence, he prays for grant of bail to the petitioner.

4. The learned counsel appearing for 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 forcibly entered into the field and damaged the fence, thereby caused damage to the 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 petitioner 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 was 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 petitioner and also considering the fact that the period of incarceration suffered by the petitioner from 15.02.2021, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to 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 **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 petitioner, after his release from prison, report before the respondent police as and when required for interrogation;**

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner 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 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];

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

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-

05/03/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

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सत्यमेव जयते

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.

4 THE INSPECTOR OF POLICE,
ARAMBAKKAM POLICE STATION,
GUMMUDIPOONDI TALUK,
THIRUVALLUR DISTRICT.

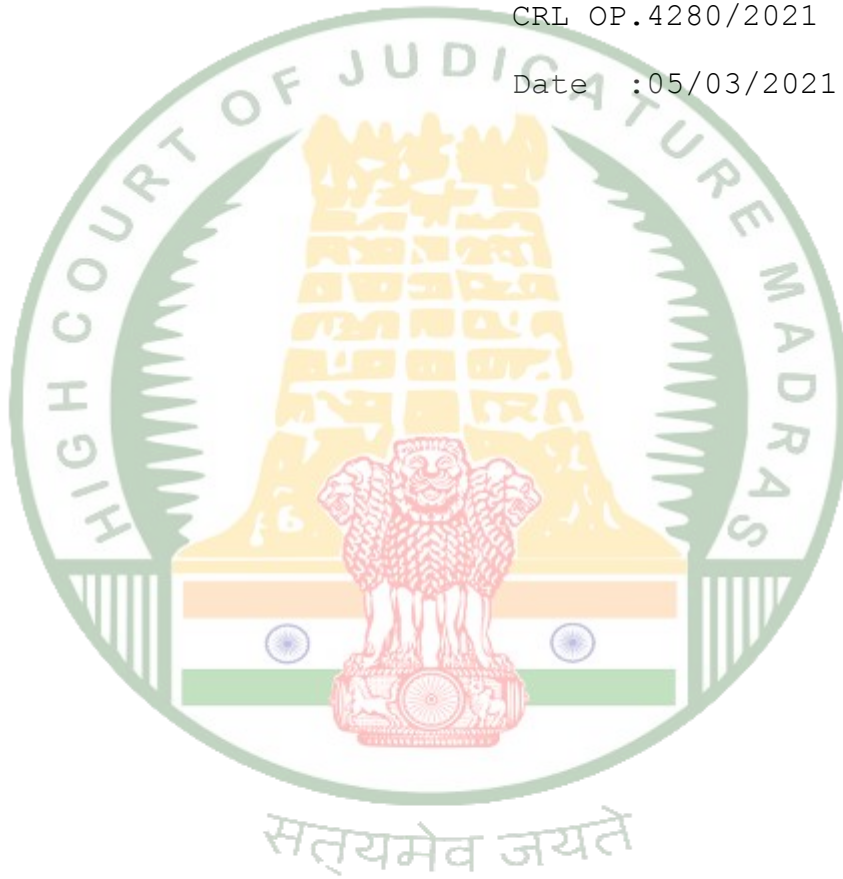
5 THE OFFICER INCHARGE
SUB JAIL, THIRUVALLUR.

+1 CC to M/S. K.RAJASEKARAN Advocate on payment of necessary
charges SR.NO.2906

CRL OP.4280/2021

Date :05/03/2021

TA-08/03/2021



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