

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.4431 of 2021

Shanmugam

... Petitioner

Vs.

State Rep. by
The Inspector of Police
Mathikonapalaiyam Police Station
Dharmapuri
(Crime No.1110 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.1110 of 2020 on the file of respondent police.

For Petitioner : Mr.V.Raghavachari

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

O R D E R

(The case has been heard through video conference)

Totally, there are 8 named accused and 12 unnamed accused. The petitioner is arrayed as A2. The petitioner, who was arrested and remanded to judicial custody on 07.02.2021 for the offence punishable under Sections 147, 148, 294 b, 323, 426, 427, 506(ii), 379 of I.P.C. r/w 3 and 4 of PPD Act, in Crime No.1110 of 2020, seeks bail.

2. The case of prosecution is that the petitioner and the defacto complainant are trustees in the educational institution and there is a dispute between them. It is stated that the petitioner said to have filed a suit in O.S.No.48 of 2020 seeking for declaration and consequential injunction. Even though the Trial Court has granted injunction, it was suspended by the appellate court. When the civil suit was pending, the present complaint has been filed alleging that the petitioner along with other accused entered into the college premises and damaged goods worth about Rs.3 lakhs. Based on which, a criminal case has been registered against the petitioner and he was arrested and remanded to judicial custody on 07.02.2021. Now, seeking

bail, the present petition has been filed.

3. The learned counsel appearing for petitioner would submit that there is a civil dispute between the petitioner and the defacto complainant, who are trustees and the suit is also pending. Now, making false allegation that the petitioner has damaged the college property, the complaint has been filed. He would submit that the petitioner is in jail from 07.02.2021 and in respect of other accused, this Court has granted interim protection to them in the anticipatory bail petition. Hence, he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would oppose this petition on the ground that there is a dispute between the trustees. Hence, a civil suit is pending. Now, the petitioner has entered into the college premises and damaged to the tune of Rs.3 lakhs. Hence, she opposed to grant bail to the petitioner.

5. Taking into consideration of the fact that, it is a civil dispute between the trustees and now the civil suit is also pending and also considering the fact that the period of incarceration suffered by the petitioner from 07.02.2021, 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 Judicial Magistrate No.I, Dharmapuri 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.

6. 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

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE NO.I,
DHARMAPURI.

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

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MATHIKONAPALAIYAM POLICE STATION,
DHARMAPURI.

5 THE SUPERINTENDENT,
SUB-JAIL, DHARMAPURI.

+1 CC to V.RAGHAVACHARI Advocate on payment of necessary charges
SR.NO.2926.

CRL OP.4431/2021

Date :05/03/2021

EP-08/03/2021