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Crl.O.P.No.5604 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2022

CORAM

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.5604 of 2022

1.E.S.Dilli Raj (M/37)
S/o.E.Selvaraj,
No.48/94, Ammani Amman Garden,
4th Street, Tondiarpet,
Chennai 600 081.

2.Kali @ Paremeshwaren
S/o.N.Jayaraj,
No.1/78, Pathala Vigneshwarar Koil Street,
Royapuram,
Chennai 600 013.

... Petitioners

Vs.

State rep. by
The Inspector of Police,
H3, Tondiarpet Police Station,
Chennai, Tamil Nadu.
(Crime No.81 of 2022)

... Respondents

PRAYER: Criminal Original petition is filed under Section 439 of Criminal Procedure Code, to enlarge the Petitioners on bail in Crime No.81 of 2022.



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For Petitioner : Mr.R.M.Babu Murugavel

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

The Criminal Original Petition has been filed seeking to enlarge the Petitioners/Accused on bail pending investigation in Crime No.81 of 2022 on the file of the respondent.

2. The case of the prosecution, as evinced from the complaint lodged by the de facto complainant, Naresh Kumar, in brief, is as under:-

The de facto complainant belongs to DMK, a political party. In his capacity as such, he was watching the election process on 19.2.2022, at about 4.30 pm, by standing near the polling booth at Ward No.49, Kamaraj Matriculation School at Sanjeeviraya Kovil Street and by that time, the Former Minister Mr.D.Jayakumar alongwith the Petitioners and some other persons in 20 two wheelers, had come to the polling station with the AIADMK flag hoisted on his car, who had attempted to trespass into the polling booth. When the de facto complainant had questioned them, the Former Minister Mr.Jayakumar had abused him with filthy language and stating as to how dare he was to question a Former



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Minister, had instigated his associates to assault the de facto complainant.

The persons, who had accompanied him viz., A.T.Arasu, Somu, Chandran and Logu and other had assaulted the de facto complainant and others, who could be identified, had also assaulted him with knives, iron rods and wooden logs and attempted to murder him. The de facto complainant, in order to save his life, had attempted to run away from the place. At that time, the Former Minister and his associates A.T.Arasu, Somu, Chandran and Logu have caught hold of him, and assaulted him again and thereafter, removing his shirt, had tied his hands from behind and paraded him in a half naked manner like an accused and due to the assault, the de facto complainant had sustained injuries in the spine, left hand and right ring finger and the legs. The de facto complainant had fallen down unconscious and that his friends had saved him and taken him to the hospital.

3. Based on the complaint, initially, a case was registered for offences punishable under Sections 147, 148, 294(b), 153, 341, 355, 323, 324 and 506(ii) of IPC and 4AA(1a), 4AA(4) of Tamil Nadu Open Places (Prevention of Disfigurement Act 1959) and after obtaining further



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statement, the case was altered into one for offences punishable under Sections 147, 148, 294(b), 153, 341, 355, 323, 324, 506(ii) and 307 of IPC and 4AA(1a), 4AA(4) Tamil Nadu Open Places (prevention of Disfigurement Act 1959) and Section 66-E of I.T.Act in Crime No.81 of 2022 on the file of the respondent police. The petitioners were arrested on 24.2.2022 and remanded to judicial custody on the same day.

4. The learned counsel for the petitioners would submit that they are innocent and they have been falsely implicated in this case, since, they happened to be members of the AIADMK party. Their names does not find a place in the FIR and they have been arrested only based on suspicion. He would further submit that this case has been foisted due to political enmity, the main accused A1 in this case, who has been named in the FIR has been granted bail by this Court.

5. Mr.A.Gokulakrishnan, learned Additional Public Prosecutor appearing for the Respondent would submit that the investigation is pending. He would further submit that it is a case where the petitioners, on th instigation of A1, a former minister along with their party



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colleagues had attempted to trespass into a polling booth and when it was questioned by the de facto complainant, the petitioners alongwith their party colleagues indiscriminately assaulted the de facto complainant with knives, wooden logs and iron rods. He would also submit that the injured victim/de facto complainant had been discharged from the hospital however, if the petitioners are granted bail, there is every possibility that they may tamper with the investigation and therefore, in the event of granting bail, it may be granted subjected to stringent conditions and the petitioners may be directed to give an undertaking that they would not indulge in any such activities in future.

6. Heard the learned counsel appearing for the parties.

7. Taking into consideration the facts and circumstances of the case and the fact that A1 has already been granted bail and the petitioners are in custody from 24.02.2022, this court is of the opinion that further incarceration of the petitioners are not required.



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8. In view of the above, this Court inclined to grant bail to the petitioners on the following conditions:-

(a) The Petitioners are ordered to be released on bail on executing own bond for a sum of Rs.10,000/- (Rupees ten thousand only), with two sureties, each for a likesum to the satisfaction of XV Metropolitan Magistrate, George Town, Chennai.

(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 stay at Trichy and appear before the Cantonment Police Station on every Monday, Wednesday and Friday at 10.30 am for a period of two weeks and thereafter, appear before the Respondent police as and when required.

(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



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Judicial Magistrate/Trial Court is entitled to take appropriate action against the Petitioners in accordance with law as if the conditions have been imposed on 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 Petitioners/accused, thereafter, abscond, a fresh FIR can be registered under Section 229A IPC.

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

16.03.2022

Index : Yes/No

Internet : Yes/No

Speaking order/Non-speaking order

shk/sai

Note: Issue order copy on 16.03.2022



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A.D.JAGADISH CHANDIRA, J.

shk

To

- 1.The XV Metropolitan Magistrate,
George Town,
Chennai.
- 2.The Superintendent of Jail,
Saidapet Sub Jail,
Saidapet.
- 3.The Inspector of Police,
H3, Tondiarpet Police Station,
Chennai, Tamil Nadu.
(Crime No.81 of 2022)
- 4.The Public Prosecutor,
High Court of Madras.

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