



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Dated: 28/06/2022

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN

Crl.OP(MD)Nos.10419 and 10898 of 2022

WEB COPY

Shahul Hameed

... Petitioner/Accused Rank Not Known
In Crl.OP(MD)No.10419 of 2022

Niyaz Ahamed

... Petitioner/Accused Rank Not Known
In Crl.OP(MD)No.10898 of 2022

Vs.

State Rep.by
The Inspector of Police,
Eraniel Police Station,
Kanniyakumari District.
(Crime No.270 of 2022)

... Respondent/Complainant
In Both Petitions

IN BOTH PETITIONS

For Petitioners : Mr.K.Navaneetharaja
For Respondent : Mr.B.Thanga Aravindh.
Government Advocate (Criminal side)

PETITIONS FOR BAIL Under Sec.439 of Cr.P.C

COMMON PRAYER :-

For Bail in Crime No.270 of 2022 on the file of the Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioner in Crl.OP(MD)No.10419 of 2022, who is arrayed as an accused was arrested on 21/05/2022, whereas the petitioner in Crl.OP(MD)No.10898 of 2022, who is arrayed as an accused was arrested, on 02/06/2022 and they were remanded to judicial custody for the alleged offences punishable under sections 120(B), 147, 148, 294(b), 307, 324 and 341 IPC, in Crime No.270 of 2022 on the file of the respondent police, seek bail.

2.The case of the prosecution, in brief, as stated in the First Information Report is that the defacto complainant, who is the wife of the injured, along with her husband was riding a two wheeler on 21.05.2022 at about 08.45 am. When they were nearing the place of occurrence, two persons, who were riding a two wheeler, came in front of the defacto complainant and her husband and abused them in filthy language and caused assault upon her husband stating that the persons, who were working against the people of Popular Front of



India should not live. They caused injuries on the right knee, below the knee portion and right hand also. Her husband sustained bleeding injuries.

3.On seeing the incident, when the neighbours came to that place, the accused persons ran away from that place. So, based upon the complaint given by the defacto complainant, a case in Crime No.270 of 2022 has been registered for the offences punishable under Sections 120 (B), 147, 148, 294(b), 307, 324 and 341 IPC by the respondent police. Seeking bail, these petitions have been filed by the accused persons stating that they have been falsely implicated in this case.

4.Since on the previous occasion, i.e., on 19.05.2022 at about 10.00 pm., when one Sameem and his brother were going near the Thengaipattanam Post Office, a car was driven in a rash and negligent manner and splashed the rain water. When that was questioned by both of them, they were assaulted. Based upon the complaint given by the injured, Sameem, a case in Crime No.145 of 2022 has been registered. As a consequence to the aforesaid incident only, the present assault has been committed by the members of the Popular Front of India.

5.The learned Government Advocate (Crl. Side) appearing for the respondent submitted that because of the attack and counter attack, tension prevails in that area and the people belong to both the groups made demonstration, protest etc, demanding action against the other group and police people have been deployed in that area. Even the respondent, who is the Investigation Officer, is also present before this Court and informed the Court that though a peace committee meeting was arranged, both side people are not willing to settle the issue and willing to escalate the situation to their advantage. So, the police has found that it is very difficult in controlling the situation.

6.It is further submitted by the learned Government Advocate (Crl. Side) that an undertaking affidavit must be filed by the petitioners to the effect that they will restore peace in that area and take a part in the peace committee meeting also. To that, the learned counsel for the petitioners submitted that the petitioners are ready to file an undertaking affidavit and to stay away from the occurrence place. But a rider has been added to the effect that the undertaking affidavit can be filed only by the family members.

7.On going through the entire files, it is seen that both the parties are mobilizing people from their respective organizations. This was pointed out to the learned counsel for the petitioners by this Court, for which, he submitted that for the past one month, the family members are staying away from the aforesaid demonstration and their family members had not participated in the same. When the



protest, demonstration etc., it is the duty of the petitioners to request the organizations to restore peace in that area. So, unless peace is restored to that area, granting of bail is not possible.

8.The reason is that in the counter case also, the accused, namely, Tetheesh and Rubin were not granted bail by the Court, which is evident from the CD file. Subsequent to the aforesaid occurrence, several First Information Reports have been registered over the demonstration, protest etc. So, the bail can be considered only if any undertaking affidavit is given by the petitioners to the effect that they will request the organizations, which are supporting their case, will not make any demonstration and protest on their behalf and will restore peace in that area.

9.Reading of the wound certificate also shows that the injured, namely, Radha Krishnan, suffered contusion on the right forearm and another contusion with punctured wound upper 3rd right leg. He was discharged from the hospital on 25.05.2022. During the X-ray, fracture was found on the right radius and the right proximal tibia. Similarly, the wife has also suffered contusion low back region.

10.After going through the preliminary order, the learned counsel appearing for the petitioners would submit that they are ready to file an undertaking affidavit. It is also submitted that the bail application filed in the counter case is posted today before the Sessions Court. So the police may also insist upon in the counter case to file a similar undertaking affidavit. After filing the affidavit of undertakings by the petitioners, the matter will be disposed of.

11.At the request the learned counsel appearing for the petitioners, the matter is adjourned to 28/06/2022. In the meantime the learned Additional Public Prosecutor may also get the instructions with regard to the stage of the bail application, which was filed before the Principal Sessions Judge, Kanyakumari and inform the court on that date.

12.In pursuance of the direction, that was issued by this court, vide order, dated 22/06/2022, now the undertaking affidavit is also filed by the petitioners stating that they already made a request to the concerned Organisation not to involve in any protest or agitation in respect of their case. Similarly, the parents of the petitioners have also given an undertaking affidavit.

13.Considering the factual issues involved in this case and also considering the fact that in the counter case, anticipatory bail was granted by this court in Crl.OP(MD)No.10617 of 2022, dated 15/06/2022 and also considering the period of incarceration of the petitioners, this court is inclined to **grant bail** to the petitioners with certain conditions. Accordingly, the petitioners are ordered to be released on bail, on each of them executing 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 Judicial Magistrate, Eraniel and on further condition that the petitioners shall report before the respondent police daily at 10.30 am until further orders.

sd/-

28/06/2022

WEB COPY

/ TRUE COPY /

29/06/2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE JUDICIAL MAGISTRATE, ERANIEL.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
- 3 THE INSPECTOR OF POLICE, ERANIEL POLICE STATION,
KANNIYAKUMARI DISTRICT.
- 4 THE OFFICER INCHARGE, SUB JAIL, NAGERCOIL.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+2 CC to M/s.K.NAVANEETHARAJA, Advocate (SR-6289[I], SR-6290[I]
dated 29/06/2022)

ORDER IN

Crl.OP(MD)Nos.10419 and 10898 of 2022
Date :28/06/2022

RS/PN/SAR.3 (29.06.2022) 4P-8C