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Crl.O.P.No.10681 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.05.2023

CORAM

THE HON'BLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.10681 of 2023

M.S.Guru @ Gurusamy

Petitioner/Accused

Vs.

State Rep by
The Inspector of Police,
Thingalur Police Station,
Erode District.
(Crime No.145 of 2016)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in S.C.No.62 of 2019 pending on the
file of the Learned II Additional District and Sessions Judge, Erode.

For Petitioner : Mr.S.Senthilmurugan

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

The petitioner was arrested and remanded in another case on
28.09.2022 and thereafter he has been produced before the trial Court in the
instant case by P.T.Warrant on 07.12.2022 and was remanded on the same



day. The petitioner is accused of the offences punishable under Sections 447, 147, 148, 353, 294(b), 506(i) of IPC and Section 3(1) of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 in Crime No.145 of 2016 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner was doing a business in the name and style of M/s.Susi Emu Farms and defrauded the general public and due to which his properties were attached via G.O.Ms.711 dated 21.09.2012. While that being so, the petitioner had entered into the attached property via JCB Vehicle along with his henchmen carrying deadly weapons and sustained damage to the property. When the Village Administrative Officer / *de facto* complainant questioned the same, the petitioner and his henchmen abused the *de facto* complainant in unparliamentary words and threatened him with deadly weapons. Hence the case.

3. The learned counsel appearing for the petitioner submitted that the petitioner has been falsely implicated in this case and he has not committed any offence as alleged by the prosecution. He further submitted that the trial Court dismissed the bail petition since the petitioner had not



complied with the conditional order passed by this Court in the Anticipatory Bail Petition in depositing a sum of Rs.10,00,000/-. He further submitted that the petitioner is in judicial custody from 28.09.2022. Hence, he prayed for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent police would vehemently oppose to grant bail to the petitioner stating that the petitioner along with other accused had threatened the *de facto* complainant with deadly weapons and abused him in unparliamentary words.

5. Heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent police.

6. Considering the above facts and circumstances of the case, the submissions made by the learned counsel on either side, the fact that the condition imposed by this Court while granting anticipatory bail cannot be insisted while considering the petitioner's bail application and the period of incarceration, this Court is inclined to grant bail to the petitioner on the following conditions;



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[a] The petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.10,000/- (Rupees Ten thousand only)** with **two sureties**, for a like sum to the satisfaction of the **learned District Munsif cum Judicial Magistrate, Perundurai.**

[b] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[c] the petitioner shall report before the trial Court on all hearing dates;

[d] the petitioner shall not abscond either during investigation or trial;

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[f] On breach of any of the aforesaid conditions, the learned 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]***;

[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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bkn/ssr



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To

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1. The II Additional District and Sessions Judge, Erode.
2. The District Munsif cum Judicial Magistrate, Perundurai.
3. The Inspector of Police,
Thingalur Police Station,
Erode District.
4. The Superintendent of Prison,
Central Prison, Coimbatore.
5. The Public Prosecutor,
High Court of Madras.



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SUNDER MOHAN,J.,

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