

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.05.2020

CORAM

THE HONOURABLE MR.JUSTICE.M.NIRMAL KUMAR

Crl.O.P.Nos. 7450, 7531, 7544, 7545, 7590, 7591, 7592 and 7593 of 2020

Tamil Vendhan, M/A 26 years,
S/o. Ramesh,
No.3, H Block, Old Bus Stand,
Shenoy Nagar,
Chennai – 600 030.

... Petitioner in Crl.O.P.No.7540/2020

1. Appu @ Kumaresan (M/27),
S/o. Mohan,
2. Mohan (M/47),
S/o. Mohan,
3. Jayamani (F/60)
W/o. Joseph Kumar,
4. Jayaprabha (F/37)
D/o. Joseph Kumar,
5. Jenitha (F34)
D/o. Joseph Kumar,

All are residing at No.28, F Block,
Shenoy Nagar,
Chennai – 600 030.

... Petitioners in Crl.O.P.No.7531/2020

Mariammal, F/A.63,
W/o.Shankar,
No.2. B-Block, Old Bus Stand,
Shenoy Nagar,
Chennai- 600 030.

... Petitioner in Crl.O.P.No. 7544/2020

Saraswathi, F/A.37,
W/o.Tamilvel,
No. D-26, Old Bus Stand,
Shenoy Nagar,
Chennai- 600 030.

... Petitioner in Crl.O.P.No. 7545/2020

Krishanveni, F/A. 56 Years,
W/o. Kumar,
No.29, 'B' Block, Slum Clearance Board,
Old Bus Stop,
Shenoy Nagar,
Chennai- 600 030

... Petitioner in Crl.O.P.No.7590/2020

Dinesh @ Eli, M/A. 23 Years,
S/o. Kothandapani,
No.16, 'C' Block, Old Bus Stand,
Shenoy Nagar,
Chennai- 600 030

... Petitioner in Crl.O.P.No. 7591/2020

Manjula, F/A. 52 Years,
W/o. Perumal,
No.54, Old Bus Stand,
Shenoy Nagar,
No.5 Storey Building,
Chennai- 600 030.

... Petitioner in Crl.O.P.No.7592/2020

Padma Priya, F/A. 34 Years,
W/o. Gunasekaran,
No.2, 'D' Block, Old Bus Stand,
Shenoy Nagar,
Chennai- 600 030.

... Petitioner in Crl.O.P.No.7593/2020

Vs.

The State represented by
The Inspector of Police
K-6, T.P.Chathiram Police Station,
Chennai. (Crime No 175/2020)

... Respondent in all the Crl.O.Ps

Common Prayer: Criminal Original Petitions filed under Section 439 Cr.P.C, to enlarge the petitioners on bail concerned in Crime No.175 of 2020 pending on the file of the respondent.

For Petitioner in Crl.O.P.No.7450/2020 : Mr.S.V.Karthikeyan

For Petitioners in Crl.O.P.No.7531/2020 : Mr.S.Shankar

For Petitioner in Crl.O.P.No.7544/2020 : Mr.U.Yuvaraj

For Petitioner in Crl.O.P.No.7545/2020 : Mr.U.Yuvaraj

For Petitioner in Crl.O.P.No.7590/2020 : Mr. D. Gopikrishnan

For Petitioner in Crl.O.P.No.7591/2020 : Mr. D. Gopikrishnan

For Petitioner in Crl.O.P.No.7592/2020 : Mr. D. Gopikrishnan

For Petitioner in Crl.O.P.No.7593/2020 : Mr. D. Gopikrishnan

For Respondent in all Crl.O.Ps : Mr. S. Karthikeyan,
Additional Public Prosecutor

COMMON ORDER
WEB COPY

The petitioner in Crl.O.P.No. 7450/2020, who was arrested and remanded to judicial custody on 20.04.2020 for the offences punishable under Sections 145, 188, 199, 269, 294(b), 341, 353 and 506(i) of IPC, in Crime No.175 of 2020 on the file of the respondent police, seeks bail.

2. The petitioners in Crl.O.P.No. 7531/2020, who were arrested and remanded to judicial custody on 21.04.2020 for the offences punishable under Sections 188, 269, 145, 341, 294(b), 353 and 506(i) of IPC, in Crime No.175 of 2020 on the file of the respondent police, seeks bail.

3. The petitioners in Crl.O.P.Nos. 7544 and 7545/2020, who were arrested and remanded to judicial custody on 22.04.2020 for the offences punishable under Sections 188, 269, 145, 341, 294(b), 332, 353 and 506(i) of IPC, in Crime No.175 of 2020 on the file of the respondent police, seeks bail.

4. The petitioners in Crl.O.P.Nos. 7590, 7591, 7592 and 7593/2020, who were arrested and remanded to judicial custody on 22.04.2020 for the offences punishable under Sections 188, 269, 145, 341, 294(b), 353 and 506(i) of IPC, in Crime No.175 of 2020 on the file of the respondent police, seeks bail.

5. The case of the prosecution is that one Dr.Simon was undergoing treatment for heart and kidney failure and further he suffered with corona virus. Subsequently he died on 19.02.2020. Thereafter, the corporation officials and the Revenue officials took steps for burial and took the body was taken to Kilpauk Cemetery. At that time, the petitioners along with other local residents, unlawfully gathered, protested and refused to allow the burial of

Dr.Simon's body. Despite the Government officials and the police officials informed them about the promulgation of Section 144 as well as the directions issued by both the Central Government and the State Government about the protocol to be followed during Covid-19, they continued to protest and ultimately stalled the officials from burying the body of Dr.Simon. In fact, the officials were forced and chased away from the Kilpauk Cemetery. Thereafter, the body was taken to another burial ground for burial. Hence, the complaint.

6. The contention of the learned Counsel for the petitioners is that the petitioners are local residents, living near the burial ground. They are not educated and worldly wise. On the date of occurrence, a news was spread among them that a body of person who died from Corona deadly virus is to be buried near their resident cemetery without taking any precautions, they apprehended the virus would spread and affect the local residents. Believing the news, the local residents questioned the same and demanded clarification. But without giving any explanations, the Government Officials taken away the body and the local residents disposed from that place. Thereafter, several of the local residents were wantonly picked up by the police and taken to the police station. When the petitioners questioned the same, they were also detained by the police and made as accused in this case. He further submitted that the petitioners have

been suffering incarceration and hence, he seeks for grant of bail to the petitioners.

7.The learned Additional Public Prosecutor submitted that the officials were not allowed to discharge their duties and that the body of Dr.Simon was not allowed to bury at the Kilpauk Cemetery. They forced and chased away the officials. Despite the explanations given by the officials, the residents were adamant and not allowed to bury the doctor's body and forced the officials to retreat and bury the body in other Cemetery. Their acts are offensive. The petitioners involvement was tracked after thorough verification from CCTV footages and by local enquiry, thereafter only the petitioners were arrested. It is further submitted that two FIRs have been registered. One is filed at K-6, T.P.Chathiram Police Station, in Crime No.175 of 2020 which pertains to the protest of burial of the Doctor's body in Kilpauk Cemetery and the other FIR has been registered by the Anna Nagar Police in Crime No.378 of 2020 for obstructions and damage of the vehicles committed by the protesters. Several persons have been arrested and remanded in both the cases out of which, 14 persons have been detained under Goondas Act 1982 for instrumentally forefront in spreading the rumours and gathering the people. As far as these petitioners are concerned, there is no such proposal against them. However, he opposed for the grant of bail to the petitioners.

8. It is seen that the petitioners and the local residents had been scared by the rumours about the spread of deadly virus and that is the reason that they had expressed their reservation during the burial of the Doctor's body. If the authorities had informed in advance about the procedure of burial and the precaution measures followed by them, the local residents apprehension about the spread of virus would have been dispelled and such protest would not have occurred. Further the burial was at odd hours.

9. Taking into consideration the nature of allegations against the petitioners in the FIR and also considering the period of incarceration, this Court is inclined to grant bail to the petitioners, subject to the following conditions:

[a] the petitioners shall execute their own bond for a sum of Rs.10,000/- (Rupees ten thousand only) each before the Superintendent of the concerned prison in

which the petitioners have been confined on their release;

(b) the petitioners shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate on or before 01.07.2020, failing which the bail granted by this Court shall stand dismissed automatically;

(c) 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.

[d] the petitioners 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 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.

10. With the above directions, these Criminal Original Petitions are ordered.

18.05.2020

Index: Yes/No

Internet: Yes/No

Speaking order/Non Speaking order

ssi

To

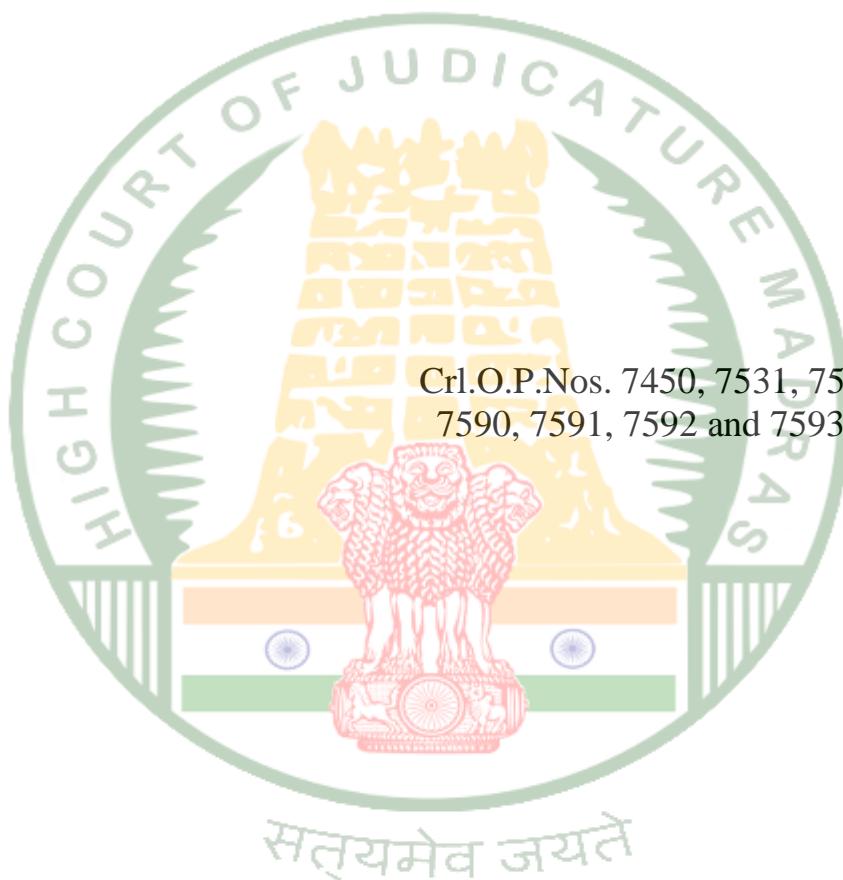
- 1.The No.V, Metropolitan Magistrate Court, Egmore, Chennai.
- 2.The Inspector of Police,
K-6, T.P.Chathiram Police Station,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Superintendent,
Special Prison for Women, Puzhal, Chennai.
- 5.The Superintendent,
Special Prison, Puzhal, Chennai.



WEB COPY

M.NIRMAL KUMAR, J.

ssi



WEB COPY

18.05.2020