

In the Court of the Principal District Judge, Madurai.

Present : Tmt.A. Nazeema Banu, B.A., L.L.M.,

Principal District Judge, Madurai.

Friday, this the 5th day of June -2020.

Cr.L.M.P.No.2524/2020 & 2568/2020

1. Riyasudeen, S/o.Sikkandar Basha

... Petitioner/Accused.

In CRLMP No:2524/2020

1. Saaudee, S/o.Sen

2. Chul P, S/o.Phonngoh

3. Abubak, S/o.Prasit

4. Dhoh, S/o.Musor

5. Suphap, S/o.Mayalo

6. Ushman, S/o.Binarwa

7. Dusit, S/o.Idsan

8. Arrep, S/o.Hwalam

... Petitioners/Accused.

In CRLMP No:2568/2020

Vs

State through the Inspector of Police,

Austinpatti P.S. Cr.No.117/2020

... Respondent/Complainant.

This petition taken up today for hearing at request through e.mail/ e.petition and after hearing the arguments of Thiru.Syed Abdul Kader, Advocate for the petitioner in Cr.M.P.No.2524/2020 and of Thiru.K.Alagarsamy, Advocate of the petitioners in Cr.M.P.No.2568/2020, and of Thiru.M. Tamil Chelvan, the Public Prosecutor for the state over conference call, this court passed the following

Order

1. Bail applications u/s 439 of Cr.P.C.

2. The offences alleged are under sections 166, 269, 270, 271 of IPC, Sec.3 of Epidemic Disease Act 1897 and Sec. 134, 135 of T.N. Public Health Act

ST(b) National Disaster Management Act and Sec.13, 14(1)(b) of Foreigners Act 1946.

3. Heard both.

4. The learned counsel for the petitioners in Cr.M.P.Nos.2524/2020 & 2568/2020 would submit that these are second bail applications in this case. The accused were kept in quarantine on 22.3.2020 and thereafter, they have been undergone Covid-19 test and they were tested negative and therefore, they were arrested on 9.4.2020 U/Sec. 166, 269, 270, 271 of IPC, Sec.3 of Epidemic Disease Act 1897 and Sec. 134, 135 of T.N. Public Health Act ST(b) National Disaster Management Act and Sec.13, 14(1)(b) of Foreigners Act 1946. The petitioners are in judicial custody more than 58 days and prayed to grant bail.

5. He would further submit that the case of prosecution is that the petitioner in Cr.M.P.No.2524/2020 is an Indian citizen and the petitioners in CrM.P.No.2568/2020 are the citizens of Thailand who came to India on tourist visa and they came to Madurai and have participated in the prayer conducted in the Mosque. It is stated that during the meeting, they have violated the rules of the Government of Tamil Nadu and the Central Government. Further, it is stated that they have not followed the social distancing during the religious meeting. Therefore, respondent police has registered a case against them. Further, the respondent police has altered the section by including Foreigners Act. Further, it is also stated that the petitioners, along with other accused have caused the spread of Covid-19 among the people in Madurai. Hence, on the complaint given by one Anandh, who is the S.I. of Police, Austinpatti Police Station, the present case came to be registered.

6. The learned counsel for the petitioners would submit that the petitioner in Cr.M.P.No.2524/2020 is an Indian national and the petitioners in CrM.P.No.2568/2020 are the citizens of Thailand and they had visited India on a valid visa issued by the Government of India. They had visited India during their holidays to experience Indian culture, traditions, hospitality and food. On their arrival in New Delhi Airport, all the petitioners were subjected to Covid-19

virus test and found negative and only then, they were permitted to leave the Airport. Thereafter, they came to Madurai and stayed at Madurai. As a devout Muslim, they used to offer prayer five times a day and they have not propagated any religious activity. They were staying in the mosque, where there had interactions with the local Muslim people. Other than this, they have not done any other religious activity. Further, in this case, 10 persons were shown as accused and except the petitioner in Cr.M.P.No.2524/2020, other accused are citizens of Thailand.

7. The learned counsel for the petitioners would further submit that the petitioners were tested for Covid-19 and the test proved negative. The petitioners, even before arrested, were taken to the Government Rajaji Hospital, Madurai and they were checked for Covid-19. The petitioners, due to the travel restriction unable to go back to their home and they never violated any provisions of the Foreigners Act. The passports of the petitioners were taken and seized by the respondent police and the petitioners were lodged in Puzhal Jail, Chennai.

8. The learned counsel for the petitioners further submitted that the foreign nationals, who are facing similar accusation as that of the petitioners, have all been granted bail and now, they are staying in the Special Camp at Puzhal, Chennai. The Government of Tamil Nadu, by G.O.(2D) No.99, dated: 22.4.2020, had declared that the premises of the Transit Yard in Puzhal Prison, Puzhal as special camp to lodge the foreign nationals who have violated the visa conditions and committed other offences. Stating so, the learned counsel for the petitioner prayed that the petitioners may be granted bail and accommodated in the Special Camp at Puzhal, Chennai.

9. The learned Public Prosecutor has submitted that the petitioners, who are the citizens of Thailand, stayed from 12.3.2020 to 24.03.2020 at a Mosque in Madurai. During the said period, the petitioners along with the other accused have conducted their religious meeting without following the social distancing and by violating the rules and thereby, caused disturbance to the steps taken by the Government for preventing the spread of Covid-19 and the petitioners and

the other accused are the main cause for the spread of Covid-19 among the people in Madurai. Hence, on the complaint given by the S.I. of Police, Austinpatti, the petitioners were arrested in this case. Initially, they were lodged in Central Prison, Madurai and thereafter, they have been transferred to Central Jail, Puzhal, Chennai. The passports of the petitioners in Cr.M.P.No.2568/2020 have been seized and deposited before Judicial Magistrate Court concerned. Since the petitioners in Cr.M.P.No.2568/2020 are the citizens of Thailand, they have no source of income. If they were released on bail, they would be only wandering and mix with others continuing their religious activities which will end in causing spread of epidemic disease and the entire exercise done by the Government in controlling Covid-19 would be spoiled. He would further submit that the petitioners though had come on tourist visa, they had never visited any place of interest and on the other hand, they have been staying only in Masjid and carrying out their religious propaganda.

10. Considering the rival submissions made on either side and on perusal of the records, it is admitted that the petitioners are the citizens of Thailand and were subjected to Covid-19 screening on their arrival in New Delhi Airport and found negative and thereafter, they were permitted to leave the Airport and they had reached Madurai and stayed in the mosque at Madurai and the petitioners were taken to the Government Rajaji Hospital, Madurai twice where they were tested for Covid-19 and the test on the petitioners found negative. All the offences are bailable in nature except Sec.13, 14(1)(b) of Foreigner's Act 1946, even punishment for foreigner's act is maximum 5 years. Therefore the argument advanced by the learned counsel for the petitioners that when the petitioners are found negative to Covid-19, there is no chance of spreading of Covid-19 through them makes sense and needs to be accepted by this Court. Hence, the petitioners so far had no contact of Covid-19 virus and they are not the cause for the spread of Covid-19. Further, the passports of the petitioners in Cr.M.P.No.2568/2020 have been already seized by the respondent police and the same were deposited before the Judicial Magistrate concerned and hence, there is no chance of fleeing away from India. Further, the petitioners in Cr.M.P.No.2568/2020 have entered into India only through valid documents and

they stayed at Madurai during the period from 12.03.2020 to 24.03.2020. On 24.3.2020, they were kept quarantine in P.T.R Engineering College, Uchampatti and thereafter, they have remanded to Judicial custody on 9.4.2020. The Honourable High Court has granted Interim bail to various foreign nationals in viz CrI.O.P. No.7602/2020 dt. 15.5.2020, CrI.O.P.No.7505/2020 dt.12.5.2020, CrI.O.P.No.7506/2020 dt.12.5.2020, CrI.O.P.No.7273/2020 dated 6.5.2020. Further, the Honourable High Court has also granted bail to an Indonesian Citizens in CrI.O.P. No.7709/2020 dated 20.5.2020.

11. In the light of the aforesaid discussion, this Court is inclined to grant bail to the petitioners in Cr.M.P.Nos.2524/2020 & 2568/2020, subject to the following conditions:-

(a) the petitioners in CrI.M.P.No.2524/2020 & 2568/2020 are ordered to be enlarged on bail on execution of their own bonds for a sum of Rs10,000/- (Rupees Ten Thousand only) each before the **Superintendent, Central Prison, Puzhal;**

(b) further, in view of G.O(2D) No.99, dated: 22.4.2020, the petitioners in CrI.M.P.No.2568/2020, on their release from the Prison, Puzhal be lodged at the Special Camp at Trichy.

c) the petitioners in CrI.M.P.No.2568/2020 shall not leave the Trichy city

d) the petitioner in CrI.M.P.No.2524/2020 shall not leave the Madurai city.

e) After a period of 6 weeks, the petitioner in Cr.M.P.No.2524/2020 should surrender before the Judicial Magistrate concerned and execute a fresh bond for Rs.10,000/- each with two sureties for likesum each to the satisfaction of Judicial Magistrate concerned. Thereafter, the petitioner shall appear and sign before the Inspector of Police, Respondent Police Station daily at 10.00 a.m., until further orders. The petitioner shall co-operate with the investigation and he shall not threaten the witnesses, he shall not induce witnesses and he shall not cause obstacles to the pending investigation. If there is any violation of condition, the Investigation Officer is within his discretion to approach the

Court of the learned Judicial Magistrate concerned for cancellation of bail order though bail granted by the Sessions Court, as per ruling of the Hon'ble Supreme Court reported in ***P.K. Shaji /Vs./State of Kerala (2005) AIR SC W 5560.*** Accordingly, the petition is allowed.

Pronounced by me in Camp Court on the 5th day of June -2020.

Sd/- A.Nazeema Banu

Principal District Judge, Madurai

Copy to

1. The Judicial Magistrate concerned
2. The Inspector of Police, Austinpatti P.S.
3. The Superintendent, Central Prison, Puzhal, Chennai.
4. The Petitioners through his counsel.