

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Eighth day of December Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice R.PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.27083 of 2017

1 MAHESH @ MAHESHKUMAR,
2 VENKATAJALAPATHI @ PATHI,
3 SURESH @ KEMPAN,
4 HARISH,
5 SURESH,
6 RAJKUMAR,

[PETITIONERS / ACCUSED]

Vs

THE INSPECTOR OF POLICE
DENKANIKOTTAI POLICE STATION,
KRISHNAGIRI,
KRISHNAGIRI DISTRICT.
CR.NO.468/2017.

[RESPONDENT]

For Petitioner : MR.PRABAKARAN, SENIOR COUNSEL FOR
M/S.R.SAGADEVAN Advocate

For Respondent : MR. R.SEKAR, Govt. Advocate (Crl. Side)

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

Heard both sides.

2. The petitioners 1 to 6 are arrayed as accused 1 to 6 in Crime No.468 of 2017 and were arrested and remanded to Judicial Custody for the alleged offences under Sections 147,148,364,302 of IPC on the file of the respondent police.

3. The case of the prosecution is that on 23.10.2017 at 8:00 hrs the deceased went to Denkanikottai Court along with his friends by Car and at 13:30 hours the defacto complainant received a call from his brother stated that he came to know through his villager that her husband was kidnapped from Denkanikottai Court by A1 to A5 and murdered him. A6 has driven the car along with A1 to A5 & A7 and kidnapped the deceased in the said Car and thereafter A1 to A5 colluded with each other murdered the deceased.

4. The learned counsel appearing for the petitioners submitted that these petitioners have been falsely implicated in this case. The learned counsel relied upon decisions reported in and prayed for

granting bail to the petitioners herein.

5. The learned Government Advocate (Crl.side) filed counter and reiterated the submissions stated in the counter.

6. Considering the submissions made by either side, it appears that the offence under Sections 147,148,364,302 of IPC has been registered against these petitioners. The first, second, third, fourth and fifth petitioners are now in Judicial custody from 26.10.2017. The sixth petitioner was arrested and remanded in judicial custody from 30.10.2017. Accordingly all the petitioners are in judicial custody for the past 60 days. While going through the particulars the learned Government Advocate submitted that the investigation has not been completed and stated that the first petitioner in this case is having two previous case, the second petitioner is having six previous case, the third petitioner is having six previous case. The remaining accused are having only one previous case each. On this ground the learned Government Advocate agitated this petition. But considering the period of detention custodial interrogation is not necessary for completing the investigation. However, considering the previous antecedents of the first, second and third petitioners this Court is not inclined to grant bail at this stage. Therefore this Criminal Original Petition is dismissed as against petitioners 1 to 3. However, considering the period of detention, the fourth, fifth and sixth petitioners are having only one previous case each and this Court is inclined to grant bail.

7. Taking all the above said aspects into consideration, having regard to the period of detention, this Court is of the view that the custodial interrogation of the petitioners are not necessary and therefore, this Court is inclined to grant bail to the petitioners 4 to 6 subject to the following conditions:-

(i) The petitioner is ordered to be enlarged on bail on his executing a bond for Rs.10,000/- each with two sureties for a like sum each to the satisfaction of District Munsif cum Judicial Magistrate Court, Denkanikottai.

(ii) The petitioners 4 to 6 shall report before the respondent / police daily at 10.00 a.m. for a period of one month and thereafter, as and when required for interrogation.

(iii) On the failure of the petitioner to comply with conditions regularly, bail granted to him shall stand cancelled automatically and the petition is allowed accordingly.

(iv) The petitioners 4 to 6 shall not tamper the evidence or witness either during investigation or trial.

(v) The petitioners 4 to 6 shall not abscond either during investigation or trial.

(vi) On breach of any of the aforesaid conditions, the learned Magistrate / Trial Court is entitled to take appropriate action against the petitioners 4 to 6 in accordance with law as if the conditions have been imposed and the petitioners 4 to 6 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].

-sd/-
28/12/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, DENKANIKOTTAI.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI. [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE
DENKANIKOTTAI POLICE STATION, KRISHNAGIRI,
KRISHNAGIRI DISTRICT,

CC to M/S.R.SAGADEVAN Advocate on payment of necessary charges

CRL OP.27083/2017

Date :28/12/2017

ths : 28.12.2017