

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.05.2020
CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

CrI. O.P. No.7662 of 2020

1. Kannan
2. Vijay

... Petitioners

-Vs-

State represented by
The Inspector of Police,
Virudhachalam Police Station,
Cuddalore District.
(Crime No.231 of 2020)

... Respondent

PRAYER:- Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.293 of 2020 pending investigation on the file of the respondent.

For Petitioners : Mr.G.Balamananikandan

For Respondent : Mr. Karthikeyan Swaminathan,
Additional Public Prosecutor

O R D E R

The Petitioners, who are A1 and A2 in Crime No.231 of 2020 for the alleged offence under Sections 294(b), 323, 324 and 302 of IPC, were arrested on 24.03.2020.

2. The case of the prosecution is that the first petitioner's daughter Deepa (A3) was given in marriage to the deceased and the deceased failed to take care of his family, was not attending any work earning income to support the family. The deceased consumed alcohol, picked up quarrel abused and assaulted his wife Deepa (A3), who was staying in her parents home. Unable to bear the same, the petitioners questioned the deceased. Being the father and brother, the first and second petitioners intervened to protect Deepa (A3) from the attack of the deceased. During the intervention, the deceased was hit on the stone and later succumbed.

3. The learned counsel for the Petitioners submits that the deceased is none other than son-in-law of the first petitioner and brother-in-law of the second petitioner. The deceased was a alcoholic without any income tortured and beaten Deepa. When Deepa was attacked by the deceased, the petitioner intervened, being drunk,

the deceased fell down and sustained injuries and later died. He would submit that the Petitioners have not committed any offence as alleged by the prosecution. Hence, he seeks bail to the petitioners.

4. The learned Additional Public Prosecutor submitted that A1 father-in-law, A2-brother-in-law and A3-wife of the deceased. On the fateful day, the deceased came fully drunk, picked up quarrel with his wife, who was staying in her parents home. During the fight, the petitioners assaulted the deceased, who had a fall and sustained injuries and later succumbed. Post Mortem report shows that the deceased was drunk. However, he objected for the grant of bail to the petitioners.

5. Considering the facts and circumstances of the case and that the period of incarceration of the Petitioners from 24.03.2020, this Court is inclined to grant bail to the Petitioners, subject to the following conditions:-

(a) the Petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each before the Superintendent of the concerned prison in which the Petitioner has been confined on his release;

(b) the Petitioner 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 Petitioner 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) the petitioner shall report before the respondent police as and when required for interrogation.

(h) 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];

(i) if the accused thereafter absconds, a fresh F.I.R. can be registered under Section 229A I.P.C.

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-
20/05/2020

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 PRINCIPAL SESSSIONS JUDGE
CUDDALORE

2 THE JUDICIAL MAGISTRATE,
NO.I, VRIDHACHALAM

3 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
VIRUDHACHALAM POLICE STATION,
CUDDALORE DISTRICT

CC to M/S. G.BALAMANIKANDAN Advocate on payment of necessary charges

WEB COPY

CRL OP.7662/2020

Date :20/05/2020

RD 04/08/2020