

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2020

CORAM

THE HONOURABLE MR.JUSTICE. **M.NIRMAL KUMAR**

Crl.O.P.Nos.7279 & 8151 of 2020

1. Vignesh, (M/35),
S/o. Thiagarajan

2. Manikandan,
S/o. Murugan

... Petitioners/A2 & A3 in
Crl.O.P.No.7279/2020

3 Kotteeswaran, (M/20)
S/o.Murugan

... Petitioner/A4 in
Crl.O.P.No.8151/2020

The State rep by
The Inspector of Police,
Sathuvachari Police Station,
Vellore District.
Crime No.132/2020

Vs.

... Respondent

Common Prayer: Criminal Original Petitions filed under Section 439

Cr.P.C, to enlarge the petitioners on bail in Cr.No.132/2020 pending on the
file of the respondent police.

For Petitioners in both Crl.O.Ps. : Mr. M. Sathish Kumar

For Respondent in both Crl.O.Ps.: Mr. S. Karthikeyan,

Additional Public Prosecutor

COMMON ORDER

The petitioners, who were arrested and remanded to judicial custody on 11.03.2020 for the offence punishable under Sections 147, 294 (b), 323, 506(i) and 302 of IPC in Crime No.132 of 2020, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that A1 married to the defacto complainant 20 years back and out of their wedlock, they were blessed with two children. The matrimonial life between A1 and the defacto complainant was not passing smoothly as A1 chose to beat and used to abuse his wife / the defacto complainant. At that time, the Nandagopalan would intervene and pacify them. However, the problem was continuously going on for some time. While so, on 10.03.2020 at about 10.00 p.m., A1 had beaten and abused the defacto complainant and that she informed the same to her brother Nandagopalan. Therefore, the said Nandagopalan along with his father Balasubramanian had questioned the same to A1 due to which, a quarrel arose between them. At that time, A2 who is the cousin brother of A1 who had returned from his work along with A3/Manikandan and A4/Kodeeswaran were informed about the fight. Further, A6/Santhi who is the

sister of A1 and her husband A5/Ravi had also joined the fight and thereafter, the fight ensued in to exchange of blows and all the accused have attacked the said Nandagopalan with hands and kicked him on his stomach and chest due to which, the said Nandagopalan fell down on the floor. Immediately, water was splashed. Since, he was motionless and there was no response from him, he was taken in the car of A1 to the Nalam Hospital from where he was referred to CMC Hospital where in, the Doctor had informed that the said Nandagopalan has already passed away. As far as these petitioners are concerned, they ran away from the scene of occurrence on seeing the police and thereafter, the defacto complainant lodged a complaint before the respondent Police. Hence the complaint.

3. The learned counsel for the petitioners/A2, A3 & A4 submitted that A2 is the cousin brother of A1. There was a quarrel between the defacto complainant and A1. Despite the advice of the elders and the family members, they used to quarrel and thereafter they would live together and this was happening frequently. It is an usual fight between the husband and wife. But the defacto complainant's brother Nandagopalan unnecessarily intervened and used to force A1. Even going by the prosecution case, the

petitioners/ A2, A3 and A4 had attacked the deceased only with hands and no weapon was used and it was only by exchange of blows. Further, A1 in this case had taken the deceased to the hospital for treatment which clearly shows that there was no intention for accused persons to commit any offence as against the deceased. Hence, he prays for grant of bail to the petitioners.

4. The learned Additional Public Prosecutor (Crl. Side) would submit that the dispute and fight between the husband and wife namely A1 and the defacto complainant was regular the deceased used intervene on behalf of his sister/ the defacto complainant as a result of which, A1 had some enmity against the deceased. While so, on the date of occurrence, A1 had called his cousin brother/ A2, his friends/A3 and A4 and also informed his brother-in-law/A5 and his sister/A6 and they all had joined together and assaulted the deceased with hands on his chest and shoulder due to which, the deceased succumbed to injuries. In this case, A1 is still absconding and some more accused are yet to be arrested. Hence, he opposed for the grant of bail to the petitioners.

5. The learned Additional Public Prosecutor also submitted that the petitioners in CrI.O.P.No.7279/2020 have already been granted interim bail by this Court by order dated 28.04.2020, for a period of twelve weeks.

6. Taking into consideration the facts and circumstances of the case and the submissions made by the Counsel, the interim bail granted to the petitioners in CrI.O.P.No.7279 of 2020 dated 28.04.2020 is made absolute.

7. Insofar as the petitioner in CrI.O.P.No.8151 of 2020 is concerned, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) the petitioner in CrI.O.P.No.8151 of 2020 shall deposit a sum of Rs.10,000/- (Rupees ten thousand only) to the Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai – 600 020 Andhra Bank, Madhya Kailash Branch (SB A/C No.149710011005477) and on such deposit, the petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only) before the Superintendent of the concerned prison, in which the petitioner has been confined on their release;

(b) The petitioners in CrI.O.P.Nos.7279 & 8151 of 2020 shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within 15 days from the date of lifting of the lockdown and the commencement of the Court's normal functioning, 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 in CrI.O.P.Nos.7279 & 8151 of 2020 shall report before the respondent police as and when required for interrogation.

(e) the petitioners in CrI.O.P.Nos.7279 & 8151 of 2020 shall not commit any offences of similar nature;

(f) the petitioner in CrI.O.P.Nos.7279 & 8151 of 2020 shall not abscond either during investigation or trial;

(g) the petitioners in CrI.O.P.Nos.7279 & 8151 of 2020 shall not tamper with evidence or witness either during investigation or trial;

(h) on breach of any of the aforesaid conditions, the learned Judicial 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 FIR can be registered under Section 229A IPC.

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

08.06.2020

Index: Yes/No
Internet: Yes/No
Speaking order/Non Speaking order

SSI

To

1. The Judicial Magistrate No.V,
Vellore, Vellore District.
2. The Inspector of Police,
Sathuvachari Police Station,
Vellore District.
3. The Public Prosecutor,
High Court, Madras.
4. The Superintendent,
Central Prison, Vellore.

M. NIRMAL KUMAR, J.

SSI



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