

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2020

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

CRL.OP.No. 8414 of 2020

1. Sathish
2.Chinnarasu

... Petitioners

Vs.

The State rep by
The Inspector of Police,
E-1, Ponneri Police Station,
Thiruvallur District.
Crime No.103 of 2020

... Respondent

Prayer : Criminal Original Petition filed under Section 439 Cr.P.C., to enlarge the petitioners on bail in Crime No. 103 of 2020 on the file of the respondent police.

For Petitioners : M/s.M.Sathyasai Eswari

For Respondent : Mr.S.Karthikeyan

Additional Public Prosecutor

ORDER

The petitioners are accused A7 and A8 in Crime No.103 of 2020 for the offences under Sections 302 IPC @ 302, 148, 324,147 and 336 of IPC , on the file of the respondent police, all the accused were arrested and remanded to judicial custody.

2. The case of the prosecution is that the defacto complainant is the Village Administrative Officer of Aaladu Village, who lodged a complaint to the respondent

police on 08.03.2020 stating that, two dead bodies were found in the Volley ball ground on Aaladu Village and these two dead persons might have been murdered by somebody from the Aaladu Village. During investigation, the respondent police found that there was previous enmity between one Jayaprakash, who is A1 in this case. On the day of occurrence, the deceased persons went to the Aaladu Village, picked up quarrel with one Jayaprakash and Gowtham and assaulted the said Jayaprakash. The accused persons, who saw the fight by the Veera and Sudhakar with Jayaprakash and Gowtham, who were playing in the playground intervened and separated them and then to fight continued and thereafter, the petitioner also got involved in the fight. The said Veera and Sudhakar are rowdy elements, they were done to death using stone crushed their head. In this case, Accused Nos.2 and 3 used the stone and hit the deceased on the head and other accused persons used cricket stumps and hit the accused. Further, the petitioner submitted that initially a case under Section 174 of Cr.P.C came to be registered on the complaint given by the VAO of the village since from the place occurrence was Volleyball playground, the volleyball players of that village was presumed to have committed the offence and the petitioners are roped in. Based on the confession, the other accused and the petitioners are made as accused. Admittedly, in this case, the deceased Veera and Sudhakar are known rowdy elements, who have several enemies and nobody has seen the actual occurrence. It is only on the presumption, somebody from village might have committed the offence the petitioners are made as an accused as they belong to village since the dead body was in the

playground. The petitioners had no bad accident and they are in confinement.

3. The Learned Additional Public Prosecutor (Crl.Side) for the respondent would submit that totally there are nine accused in this case. Admittedly, the deceased Veera and Sudhakar are known rowdy elements. The case came to be registered under Section 174 of Cr.P.C on the complaint of the Village Administrative Officer. Initially nobody from the Village informed about the occurrence later during investigation the Villagers gave statement about the assault committed by the petitioners on the deceased. Thereafter, the petitioners were arrested. Based on the confession, recovery is made, substantive portion of the investigation is completed. Further, the petitioners have no bad accident.

4. Considering the same and the period of incarceration of the petitioners, the petitioners are of young age who are all from the Aaladur Village, the deceased being rowdy elements, had many enemies since their body was found near the Volleyball playground. It cannot be said Volleyball players have attacked and committed murder. Taking into consideration of the period of incarceration, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) the petitioners shall execute own bond for a sum of Rs.10,000/- each (Rupees Ten thousand only), before the Superintendent of the concerned prison in which the petitioner are confined on their release;

(b) the petitioners shall execute two sureties for a sum of Rs.10,000/- each (Rupees Ten thousand only), 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 petitioners shall not abscond either during investigation or trial;

(f) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(g) the petitioners shall report before the respondent Police as and when required for interrogation.

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

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

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10.06.2020

Internet: Yes/No

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M.NIRMAL KUMAR.,J.

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To

1.The Judicial Magistrate No.II, Ponneri.

2.The Inspector of Police,
E-1, Ponneri Police Station,
Thiruvallur District.

3.The Sub-Jail,
Thiruthani.

4.The Public Prosecutor,
High Court, Madras.



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