

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2020

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

CRL.O.P.NO. 8746 of 2020

1. Kumar
2. Rahul @ Raghavan
3. Murugan
4. Aravinth @ Vellaiyan
5. Manikandan @ Chetti
6. Raja @ Gandhi
7. Sivaraja

... Petitioners/Accused No.1 to 7

Vs.

The State Rep. By
The Inspector of Police,
Tholasampatti Police Station,
Salem District.
(Crime No.237 of 2020)

... Respondent

Prayer : Criminal Original Petition filed under Section 439 Cr.P.C., to enlarge the petitioner on bail in Crime No.237 of 2020 on the file of the respondent police.

For Petitioners : Mr.M.Subash

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

ORDER

The Petitioners who were arrested and remanded to judicial custody on 29.05.2020 for the offences punishable under Sections 147, 148, 294(b), 323,307 and 506(ii) of IPC, in Crime No.237 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioners' relative one Manimegalai and the defacto complainant's relative one Gokul had love with each other had eloped and got married. On coming to know about this, both the family members of Manimegalai and Gokul had mediation meeting and finally the said Manimegalai was adamant to join with Gokul and on taking into account both of them are major, the petitioners who are relatives of Manimegalai had left the mediation meeting. While they were returning, they had picked up quarrel with the defacto complainant who was a relative of Gokul and thereafter attacked the defacto complainant's husband Madhesh. Hence, the case come to be registered.

3. The contention of the petitioner is that the petitioners' relative Manimegalai had eloped with one Gokul and it was questioned by the petitioners with the relatives of Gokul and there was a mediation meeting where they were heated exchange of words. Since Manimegalai was adamant to stay with Gokul,

the petitioners left the meeting. While they returned back, the defacto complainant's husband had picked up a quarrel with the petitioners which ensued into fight, which arose out of heat and passion. The victim has been discharged from the hospital.

4. The learned Additional Public Prosecutor has submitted that Manimegalai and Gokul had love affair and eloped and the family members of both had a meeting. After the meeting, the defacto complainant was assaulted by the petitioners. A1 armed with knife and caused injury on the defacto complainant's husband who had sustained injuries on the head. The other accused namely A2 to A7 had attacked the victim all over the body. The victim is now discharged from the hospital. The fight arose due to elopement of Manimegalai and Gokul and heat of passion.

5. Considering the submissions and the fact that the victim has been discharged from the hospital and taking into consideration of the period of incarceration of the petitioners, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) the Petitioners shall execute their own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each before the Superintendent of the concerned prison.

(b) the petitioners shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lockdown and commencement of regular functioning of Court below, 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 report before the Respondent Police as and when required for interrogation.

(e) the Petitioners shall not commit any offences of similar nature;

(f) the Petitioners shall not abscond either during investigation or trial;

(g) the Petitioners 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 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]; and

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

16.06.2020

Internet: Yes/No
mfa

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M.NIRMAL KUMAR.,J.

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To

1.The Judicial Magistrate,
Omalur.

2.The Inspector of Police,
Tholasampatti Police Station,
Salem District.

3.The Public Prosecutor,
High Court, Madras.

Crl.O.P.No. 8746 of 2020

Copy to

The Superintendent,
Sub Jail,
Omalur at Salem.

16.06.2020



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