

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.07.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.Nos.10055 & 10062 of 2020

Ramesh ... Petitioner in Crl.O.P.10055/2020

Govindhan ... Petitioner in Crl.O.P.10062/2020

Vs.

State by Sub-Inspector of Police
Thirupathur Town Police Station
Vellore District
(Crime No.1158 of 2020)

.. Respondent

PRAYER: Criminal Original Petitions have been filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.1158 of 2020 pending investigation on the file of the Respondent Police.

For Petitioners : Mr.N.Baskaran in Crl.O.P.10055/2020
Mr.E.Kannadasan in Crl.O.P.10062/2020

For Respondent : Mr.K.Prabakar
Additional Public Prosecutor

C O M M O N O R D E R

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 01.06.2020 for the offence punishable under Sections 386 IPC r/w Sections 3 & 4 of TNP of charging Exorbitant Interest Act 2003 and subsequently it was altered into Sections 386, 116, 306 IPC r/w Sections 3, 4 and 9 TNPCEI Act, 2003, in Crime No.1158 of 2020, seeks bail.

2. The case of the prosecution as per defacto complainant is that he is running a grocery shop, for which, he borrowed a sum of Rs.1,00,000/- from the petitioner in Crl.O.P.No.10055 of 2020 / A1 on EMI basis (daily) on 19.05.2020 and he had repaid most of the borrowed amount. Due to Covid-19 problem, there was a default in payment, thereby, A1 continuously harassed and threatened the complainant, thereby, the defacto complainant borrowed another sum of Rs.20,000/- from the petitioner /A2 in Crl.O.P.No.10062 of 2020 for repayment to A1. Thereafter, both the accused had continuously harassed the defacto complainant. Unable to bear the harassment and

torture of the petitioners, the defacto complainant and his family members decided to commit suicide and they had consumed rat poison/pesticide on 27.05.2020. Later after first aid they were taken to the hospital on 31.05.2020 wherein on 31.05.2020, the 2nd daughter of the defacto complainant died and all others have recovered.

3.The learned counsel appearing for the petitioners would submit that the petitioners have been falsely implicated in this case, they would submit that there was family problem between the defacto complainant and his wife, due to which the defacto complainant attempted to do away his wife and on the complaint given by his wife a case in Cr.No.116 of 2020 had been registered against the defacto complainant, there were boiling tension in the family and the defacto complainant for the reasons known to him had decided to commit suicide along with his family members. Pursuant to which they had consumed poison on 27.05.2020, thereafter the family members had been given first aid, subsequently after four days on 31.05.2020 they were taken to hospital at Thirupattur, from there the daughters were referred for further treatment and admitted as inpatient, where one of the daughter died. In order to escape from the earlier case, the defacto complainant has falsely implicated the petitioners. Even admittedly, as per the FIR, the defacto complainant has stated that he had received a loan only on 19.05.2020 and there is no possibility for the petitioners to put pressure on him within short period. He would submit that the petitioners are in custody from 01.06.2020, thereby they would seek for bail.

4.The learned Additional Public Prosecutor would submit that the petitioners are moneylenders. They lent money to the defacto complainant who was running a grocery shop on speed interest. The defacto complainant has repaid major part of the money borrowed. Even then, the petitioners had continued to harass him for the interest and principal amount. Unable to bear the torture, the defacto complainant had attempted to commit suicide along with his family members. Unfortunately, one of his daughters passed away. He would further submit that investigation is pending.

5.At this juncture, Mr.Baskaran, learned counsel appearing for A1/ petitioner in CrI.O.P.10055/2020 and Mr.E.Kannadasan, learned counsel appearing for A2 / petitioner in CrI.O.P.10062/2020 on instructions from their respective petitioners would submit that they will not make any claims against the defacto complainant or his family members.

6.Taking into considerations of the submissions so made by the learned counsels for the petitioners, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail on executing their own bonds for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the Superintendent of the concerned prison, in which the petitioners have been confined and thereafter on his release,

(b) the petitioners 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 shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter 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];

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

7. With the above directions, these Criminal Original Petitions are ordered.

-sd/-

03/07/2020

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 JUDICIAL MAGISTRATE,
NO.3, TIRUPATTUR

2 THE JUDICIAL MAGISTRATE,
NO.1, THIRUPPATHUR

3 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

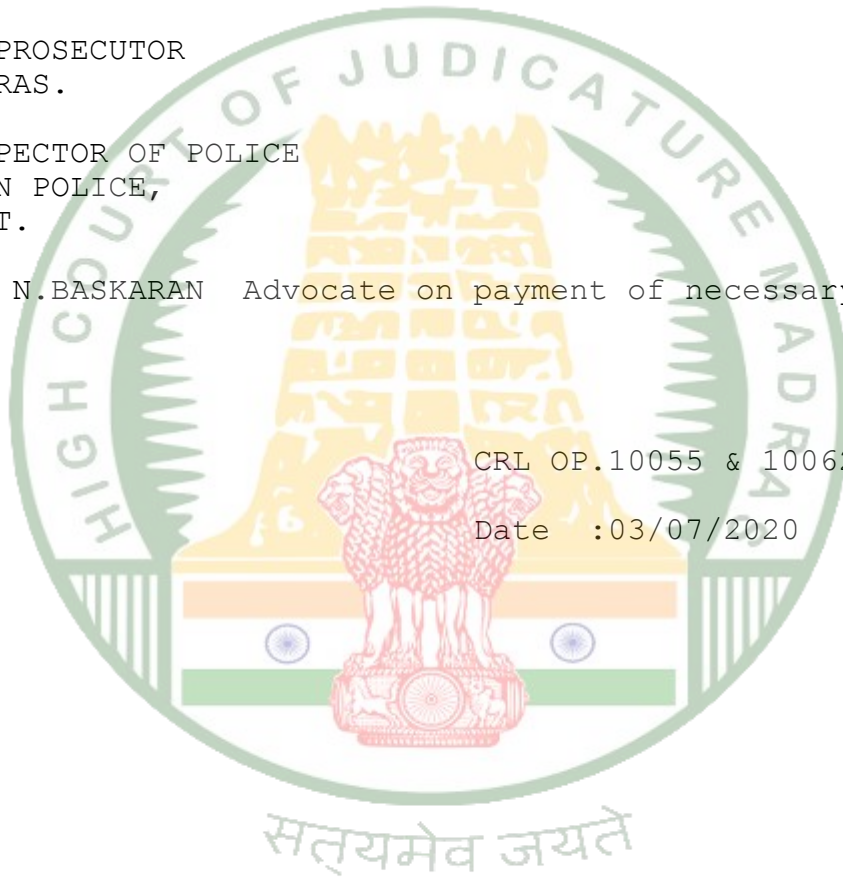
5 THE SUB INSPECTOR OF POLICE
THIRUPATHUR TOWN POLICE,
VELLORE DISTRICT.

CC to M/S. N.BASKARAN Advocate on payment of necessary charges

CRL OP.10055 & 10062/2020

Date :03/07/2020

RD 12/08/2020



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