

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2020

CORAM:

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

Crl.O.P.Nos.10061, 9955 & 9555 of 2020

1. Ramesh
2. Balaji ...Petitioners in Crl.OP.No.10061 of 2020
Manikandan ...Petitioner in Crl.O.P.No.9955 of 2020
Singaravel ...Petitioner in Crl.O.P.No.9555 of 2020

Vs.

State By
The Inspector of Police,
Thiruvarur Taluk Police Station,
Thiruvarur District.
Crime No.1090 of 2020 ... Respondent in all Crl.O.Ps

COMMON PRAYER: Criminal Original Petitions filed under section 439 of Cr.P.C., seeking to enlarge the petitioners on bail in Crime No.1090 of 2020 on the file of the Inspector of Police, Thiruvarur Taluk Police Station, Thiruvarur District.

For Petitioner
in Crl.O.P.No.10061 of 2020 : Mr.Swami Subramanian

For Petitioner
in Crl.O.P.No.9955 of 2020 : Mr.S.Giritharan

For Petitioner
in Crl.O.P.No.9995 of 2020 : Mr.E.Kannadasan

For Respondent
in all Crl.O.Ps : Mr.T.Shunmugarajeswaran
Government Advocate (Crl.Side)

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 09.06.2020 for the offences punishable under Sections 304 (2) of IPC r/w. 21 (1) of Mines and Minerals (Development and Regulation) Act, 1957 and in Section 3(1) of Tamilnadu Public Property Damage and Loss Act, 1992, in Crime No.1090 of 2020 on the file of the respondent police, seek bail.

2.The case of the prosecution is that on 08.06.2020, the first petitioner in Crl.O.P.NO.10061 of 2020 was unloading savudu sand in his lorry. At that time, the lorry tyres got stuck in the agricultural land. Therefore, the other accused had brought HITACHI vehicle from A2 and tried to take out the tyres. At that time, the driver of the lorry lost his control and the lorry dashed against the lamp post which in turn, fell in the field where the deceased was working and that the deceased suffered electrocution and died. Hence, complaint.

3. The learned Counsel for the petitioner in Crl.O.P.No.9555 of 2020 submitted that the petitioner is the owner of the tipper lorry and he is no way connected with the alleged offence. He would further submit that without prejudice to his contention and defence, the petitioner has already paid a sum of Rs.1 lakh by way of cash to the complainant's family as compensation and he is also prepared to pay further sum of Rs.1 lakh to the complainant's family. He would further submit that the petitioner has been in judicial custody from 09.06.2020 and that the major part of investigation is over. Hence, he seeks for grant of bail to the petitioners.

4.The learned Counsel for the petitioners in Crl.O.P.10061 of 2020 submitted that the first petitioner who is the driver of the lorry on instruction of the 2nd petitioner, was unloading savudu sand for the construction of temple and they have not committed any offence as alleged by the prosecution. Only due to negligence on the part of the driver of the HITACHI, the incident had occurred which resulted in the death of the husband of the defacto complainant. Hence, he seeks for grant of bail to the petitioners.

5.The learned Counsel for the petitioner in Crl.O.P.9955 of 2020 submitted that the petitioner is the driver of the HITACHI vehicle. The incident had happened accidentally and there is no negligence on the part of the petitioner and that he had no intention to cause any death. Hence, he prays for grant of bail to the petitioner.

6.The learned Government Advocate (Crl. Side) submitted that the petitioners are owner and drivers of the tipper lorry and Hittachi vehicle. He further submitted that due to negligence of the petitioners, the incident took place and the deceased who is the husband of the defacto complainant has lost his life. He further submitted that the investigation is pending. Hence, he vehemently opposed for the grant of bail.

5. Taking into consideration the facts and circumstances of the case and the fact that the owner of the tipper lorry viz. the petitioner in Crl.O.P.No.9555 of 2020 has already made paid a sum of Rs.1 lakh to the defacto complainant's family as compensation and also prepared to pay another sum of Rs.1 lakh to the defacto complainant's family and considering the period of incarceration by the petitioners from 09.06.2020, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) The petitioner in Crl.O.P.No.9555 of 2020 shall handover the demand draft bearing No.348333 dated 02.07.2020 drawn in Syndicate Bank, Tiruvarur Branch for a sum of Rs.1,00,000/- in favour of the defacto complainant namely K.Rajeswari to the prison authorities. The Superintendent of the concerned prison who inturn hand over the demand draft to the respondent/police to be handed over to the wife of the victim namely K.Rajeswari.

(b) Accordingly, the petitioners are ordered to be released on bail on executing their own bond 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 their release;

(c) the petitioners shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the Judicial Magistrate, Thiruvarur, on or before 07.08.2020, failing which the bail granted by this Court shall stand dismissed automatically;

(d) 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;

(e) the petitioners shall report before the respondent police daily at 10.30 a.m. for a period of one week and thereafter as and when required.

(f) the petitioners shall not commit any offences of similar nature;

(g) the petitioners shall not abscond either during investigation or trial;

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

(i) 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];

(j) 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.

-sd/-

07/07/2020

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,
THIRUVARUR

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
THIRUVARUR TALUK POLICE STATION,
THIRUVARUR DISTRICT.

4 THE OFFICER INCHARGE,
DISTRICT PRISON, NAGAPATTINAM

5 THE OFFICER INCHARGE,
SUB JAIL, THIRUTHURAIPOONDI

6 THE SUPERINTENDENT,
CENTRAL PRISON, THIRUCHIRAPALLI

CC to M/S. SWAMI SUBRAMANIAN Advocate on payment of necessary charges

CRL OP.10061/2020

Date :07/07/2020

RVR 02/09/2020

WEB COPY