

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.10116 of 2020

B.Thavitha Raja

...Petitioner/Accused

-Vs-

State By

The Inspector of Police,
Pallikaranai Police station,
Chennai.

Crime No.517 of 2020

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., praying to enlarge the Petitioner on bail, in the case pending investigation in Crime No. 517 of 2020 , on the file of the Respondent Police.

For Petitioner : Mr.R.Thamaraiselvan

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

O R D E R

The petitioner, who was arrested and remanded to judicial custody on 25.04.2020 for the offence punishable under Sections 147,148, 302, 307 IPC in Crime No.517 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the de-facto complainant and the deceased Giri were close friends, the deceased has two younger brothers namely, Sriram and Lakshmanan, one brother is studying in Asan Memorial College and another brother is studying in Mohamed Sathak College. Two months prior to the occurrence, the deceased Giri asked Janakiraman why he has called his brother, Giri assaulted the said Janakiraman. Thereafter, on 21.04.2020 at about 12.00 noon, Giri's brother Lakshmanan assaulted a small boy Sidarth in his street, knowing this, Janakiraman questioned Lakshmanan. At that time, the de-facto complainant and the deceased Giri came to the spot, pacified the issue at that time, the said Janakiraman threatened the de-facto complainant and others and left the spot. On the same day, on 21.04.2020 at about 7.00 p.m when the de-facto complainant and the deceased Giri were sitting in a small wall in Kalaingar Nagar 9th street and were playing fire game in mobile phone, at about 7.30 p.m Janakiraman @ Janaki, Mani Viji and others came in three motor bikes along with others. The 1st accused Janaki said to the other accused to assault the deceased Giri and other accused assaulted Giri with knife on his head, stomach and hip and

also assaulted the de-facto complainant with knife. Thereafter, the de-facto complainant took the deceased to the nearest V Care Hospital, the Doctors informed that the victim Giri died on the way to the hospital and hence, the complaint.

3. The learned Counsel for appearing for the petitioner would submit that the petitioner's name does not find place in the FIR and he has been arrayed in this case based on the confession given by the co-accused. The petitioner had gone to the scene of occurrence and he had only separated the fight between the groups. He would further submit that the petitioner is in judicial custody from 25.04.2020. He would also submit that the defacto complainant is an eye witness to the occurrence, who was along with the deceased Giri when he was assaulted. The defacto complainant specifically mentioned the name of the persons who attacked the deceased and their overtact. As far as this petitioner is concerned, there is no specific overtact except for the bald allegation that the persons along with the named accused had kicked the deceased Giri and hence, he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that there are totally nine accused involved in this case and the petitioner is arrayed as A5. He further submitted that the occurrence had taken place on 21.04.2020 and there was some dispute between the de-facto complainant and the brother of A1 at 7.30 p.m in a public place. All the accused armed with Aruval, surrounded the deceased as well as the de-facto complainant and assaulted them. The deceased succumbed to the injuries and the de-facto complainant was admitted in the hospital with grievous injuries and thereafter, he was discharged. He would further submit that this petitioner along with other accused armed with Aruval and committed brutal murder in the public place. All the accused persons in this case are arrested, investigation is almost completed. As far as this petitioner is concerned, there is no previous case against him. He vehemently opposed to grant bail to the petitioner.

5. Considering the facts and circumstances of the case and also taking note of the fact that the petitioner is in judicial custody from 25.04.2020 and the fact that the investigation is almost completed, this Court is inclined to grant bail to the petitioner, subject to the following conditions :

(a) 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 his release;

(b) the petitioner 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 petitioner shall report before the respondent police as and when required for interrogation.

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

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

(g) the petitioner 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.

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

-sd/-
03/07/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

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सत्यमेव जयते
Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
ALANDUR

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
PALLIKARANAI POLICE STATION,
CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI

CC to M/S. R.THAMARAISELVAN Advocate on payment of necessary
charges

CRL OP.10116/2020

Date :03/07/2020

RVR 28/08/2020



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