

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2020

CORAM:

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

Crl.O.P.Nos.10588 & 10589 of 2020

1.Parthiban
2.Santhosh
3.Praveen Kumar
4.Vajpai @ Va

... Petitioners in
Crl.OP.No.10588 of 2020

1.Prakash @ Kulla Prakash
2.Prabhu
3.Anand @ Eli Anand

... Petitioners in
Crl.OP.No.10589 of 2020

Vs.

State represented by ... Respondent in both Crl.O.Ps.
The Inspector of Police,
V-3, J.J Nagar Police Station,
Mogappair East,
Chennai 600 037.
(Cr. No.945 of 2020)

COMMON PRAYER: This Criminal Original Petitions filed under section 439 of Cr.P.C., seeking to enlarge the petitioners on bail in Crime No.945 of 2020 on the file of the respondent Police.

For Petitioners: Mr.M.Sathish Kumar
In both Crl.O.Ps

For Respondent : Mr.T.Shunmugarajeswaran,
Government Advocate (Crl. Side)

COMMON ORDER

(These cases have been heard through video conference)

The petitioners who were arrested and remanded to judicial custody on 05.06.2020 for the offences punishable under Sections 147, 148 of IPC, Section 25(1A) of Arms Act, 1959 and Section 9(B)(1)(b) of Explosive Act, 1884 in Crime No.945 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant namely Thangadurai, Sub Inspector of Police, Villivakkam Police Station is that while he was on usual rounds, he had seen the accused gathered at a place and he went over there. He heard them planning to

do away with one Shanmugam who had committed murder of their friend one Shajahan. Therefore, the defacto complainant attempted to apprehend them. But, they evaded arrest and later they were overpowered and arrested. Thereafter, a search was conducted in the place where they were residing where the respondent recovered petrol bombs, 250 gms. of explosive powders and some deadly weapons and the accused were arrested on the same day.

3. The learned Counsel for the petitioner submitted that the petitioners are innocent and they have been falsely implicated in this case. He would further submit that one Shajahan who is the friend of the petitioners' was murdered by one Shanmugam and the petitioners were called for enquiry and then they had gone for an enquiry to Mugappair Police Station wherein, a false case was foisted against them, subsequently, they were arrested. He would submit that the petitioners have been in judicial custody from 05.06.2020. He would further that the respondent has registered this case as a preventive measure in order to avoid any untoward incident and prevent retaliation. Hence, he prays for grant of bail to the petitioners.

4. The learned Government Advocate submitted that at the petitioners were in possession of petrol bombs, 250 grams of explosive powders and some deadly weapons and the accused were found making preparation for retaliating for the murder of their friend Jayaprakash. He would submit that investigation is pending and there are no previous case pending against the petitioners.

5. Considering the above facts and circumstances of the case and considering the period of incarceration by the petitioners from 05.06.2020, 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 bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the Superintendent of the concerned prison, in which the petitioner has been confined and thereafter on their release;

(b) the each petitioners shall execute **two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each**, before the learned Judicial Magistrate, Ambattur, Chennai, 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. until further orders.

(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 themselves 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 Petitions are ordered.

-sd/-

16/07/2020

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,
AMBATTUR COURT, CHENNAI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
V3 JJ NAGAR POLICE STATION,
MOGAPPAIR EAST, CHENNAI.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL CHENNAI.

CC to M/S. M.SATHISH KUMAR Advocate on payment of necessary charges

CRL OP.10588 & 10589/2020

Date :16/07/2020