

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.07.2020

CORAM :

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

Crl.O.P.Nos.10703 of 2020

1.Ajithkumar S/o. Balasubramaniyan
2.Madhanraj S/o. Kumar
3.Vadivel S/o. Palani

... Petitioners

Vs.

State, rep. by
The Inspector of Police
NAMAKKAL Police Station
Namakkal District
(Crime No.787 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.787 of 2020 pending investigation on the file of the Respondent Police.

For Petitioners : Mr.W.Camyles Gandhi

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

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 Section 302 & 201 IPC, in Crime No.787 of 2020, seek bail.

2. The case of the prosecution as per the defacto complainant Tamilarasi, VAO is that on 07.06.2020, A1 / Dinesh had appeared before her and confessed that due to money dispute, he had committed the murder of the deceased Naresh Kumar on 04.06.2020 and buried the body within his house with the help of his friends Ajithkumar, Madhanraj and Vadivel. During the course of investigation, the petitioners were arrested for having aided and assisted the main accused to bury the body.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would further submit that the deceased had borrowed a sum of Rs.20 lakhs from A1 / Dinesh and had not

repaid the same. Even as per F.I.R. it is seen that A1 had committed the murder and thereafter the petitioners were used only for burying the body. Except the alleged averment, there is no material to pin point the petitioners' involvement in this case. The petitioners were arrested on 09.06.2020 and they are in custody for more than 50 days.

4.The learned Government Advocate (Crl. Side) would submit that the petitioners are the associates of main accused A1/ Dinesh. A1 had lent Rs.20 lakhs to the deceased. Since the same was not repaid, at the instruction of A1, the 1st petitioner / A2 who is working under A1 brought the deceased to the house of A1 and the deceased was kept in A1's custody for two days and he was murdered by A1 and the body of the deceased was buried in the house of A1. The petitioners have assisted the main accused in burying the body. Based on the extra judicial confession of the accused the body was exhumed and the mother of the deceased has stated that she has lastly seen her son along with the 1st petitioner / A2 herein.

5.Perused the F.I.R. Taking into consideration of the facts and circumstances and also considering the submissions made by the learned counsels, and also considering the period of incarceration, 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 condition to execute 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;

(b) the petitioners shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned Judicial Magistrate - I - Namakkal, within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, 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 stay at Salem and report before the Salem Town Police Station daily at 10:30 a.m and 5:30 p.m. until further orders. The petitioners shall not enter into the jurisdictional limits of the respondent police.

(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.

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

-sd/-

30/07/2020

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.I, NAMAKKAL

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
NAMAKKAL POLICE STATION,
NAMAKKAL DISTRICT.

5 THE OFFICER INCHARGE
SALEM TOWN POLICE STATION,
SALEM

CC to M/S. W.CAMYLES GANDHI Advocate on payment of necessary charges

CRL OP.10703/2020

Date :30/07/2020

RD 03/08/2020