

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.07.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.11183 of 2020

1.Yuvaraj, M/34 yrs
S/o Shanmugam
No.40/91, Kamatchi Amman Kovil Street
Cuddalore Port
Cuddalore, Tamilnadu-607 003.

2.Eswaran, M/30 yrs
S/o Gurusamy
No.12A, Selliyamman Kovil Street
V.O.C.Nagar, Tondiarpet
Chennai - 600 081. Petitioners

Vs.

State Rep. by
The Inspector of Police,
E-6 Thiruporur Police Station,
Kancheepuram
Cr. No.561 of 2017 Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioners on bail pending investigation in Crime No.561 of 2017 on the file of the respondent police.

For Petitioners : Mr.A.Kalaiselvan

For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor

O R D E R

The petitioners who were produced before the Judicial Magistrate Court-I, Chengalpattu, through P.T (Prisoners Transit) warrant on 23.01.2020 in P.R.C.No.15 of 2018 for the offence punishable under Sections 147, 148, 114, 302, 34, 149 IPC in Crime No.561 of 2017 on the file of the respondent police, seek bail.

2.The case of the prosecution is that on 01.12.2017, five unknown persons conspired together and acted in common intention to murder the deceased.

3.The learned counsel appearing for the petitioners would submit that the petitioners are arrayed as A6 and A7. They have been implicated as accused only on the confession statement of the co-accused in the above crime. Further, the petitioners are granted bail during the month of August 2018 and also facing trial in

S.C.No.166 of 2016 on the file of the IV Additional Session Court, Chennai. Therefore, they have surrendered before the concerned Court in S.C.No.166 of 2016 on 16.08.2019. Thereafter, they have been remanded to judicial custody and then, for want of this case, the petitioners were produced before the Judicial Magistrate - I, Chengalpattu. Based on P.T. warrant issued by the said Court on 23.01.2020, the petitioners were again remanded to judicial custody on 23.01.2020. Further, the learned counsel for the petitioners would submit that the petitioners never jumped out of bail and even from the prison, they were regularly appearing before the concerned Court.

4.This is a third bail petition filed by the petitioners. It is seen that the petitioners failed to appear before the Sessions Court in S.C.No.166 of 2016 on the file of the IV Additional Sessions Court, Chennai. Therefore, the trial Court in S.C.No.166 of 2016 issued NBW as against the petitioners on 16.08.2019. Subsequently, they were surrendered on 20.08.2019 and remanded to judicial custody. While the petitioners were in judicial custody in P.R.C.No.15 of 2018 pending on the file of the learned Judicial Magistrate No.1, Chengalpattu issued NBW as against the petitioners on 27.09.2019. In pursuant to the same, the petitioners were produced on P.T. Warrant in P.R.C.No.15 of 2018 and their remand was extended. In the mean while, in S.C.No.166 of 2016, the petitioners were acquitted by the judgment of this Court dated 31.01.2020.

5.The learned Additional Public Prosecutor appearing for the State would submit that the respondent police completed investigation and filed final report and the same has been pending for committal in P.R.C.No.15 of 2018, in which, the petitioners were already granted bail by this Court during August 2018. Therefore, at the time of issuance of NBW in P.R.C.No.15 of 2018, the petitioners were in judicial custody.

6.Considering the above facts and circumstances of the case, this Court is inclined to grant bail to the petitioners, subject to the following conditions:- सत्यमेव जयते

(a)The petitioners are ordered to be released on bail on each of them executing their own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) before the Superintendent of the concerned prison, in which the petitioners have been confined on their release;

(b) Each of the petitioners shall execute two blood 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 petitioners shall report before the learned Judicial Magistrate No.1, Chengalpattu daily at 10.30 am and 5.00 pm on all Court working days, 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 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 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.

-sd/-

31/07/2020

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, CHENGALPATTU

2 THE SUPERINTENDENT,
SUB-JAIL, POONAMALLEE,
CHENNAI-600 056.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
E6 THIRUPORUR POLICE STATION,
KANCHIPURAM DISTRICT.

CC to M/S.A.KALAISELVAN Advocate on payment of necessary charges

CRL OP.11183/2020

Date :31/07/2020

RD 03/08/2020

<https://hcservices.ecourts.gov.in/hcservices/>