

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.07.2020

CORAM :

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

Crl.O.P.No.10868 of 2020

1.Karthick
2.Sekar

... Petitioners

Vs.

State rep. by
The Inspector of Police
Minjur Police Station
Thiruvllur District
(Crime No.1092 of 2020)

... Respondent

PRAYER: Criminal Original Petitions are filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.1092 of 2020 pending investigation on the file of the respondent.

For Petitioners : Mr.N.R.Elango, SC
for M/s.Aruna Elango

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

O R D E R

(These cases have been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 08.06.2020 for the offences punishable under Section 147, 148, 294(b), 323, 324 and 307 IPC @ 147, 148, 294(b), 323, 324 and 302 IPC, in Crime No.1902 of 2020, seek bail.

2.The case of the prosecution as per the defacto complainant Karthik, who is the friend of the deceased Sukumar is that on 07.06.2020, he along with his friend was travelling in an auto rickshaw, when the accused persons attempted to over take them, there was a quarrel, during which, the accused assaulted the defacto complainant and his friend with iron rods, resulting in the victim sustaining serious injuries. The deceased was taken to the hospital and after 5 days he passed away not responding to the treatment.

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 since the petitioners happened to be the friends of the main accused, a false case has been foisted against them. He would further submit that the names of the petitioners are not found in the F.I.R. Originally the case was registered under Sections 147, 148, 294(b), 323, 324 and 307 IPC and after five days, the victim had succumbed to death due to COVID-19 and it was altered to 302 IPC.

4.The learned Government Advocate (Criminal Side) would submit that there was a road rage, due to which, the petitioners along with other accused waylaid the defacto complainant and his friend and started to quarrel, and assaulted them with iron rods, due to which, the defacto complainant's friend / victim sustained serious injuries and without responding to the treatment died after 5 days. Investigation is pending.

5.Taking into consideration of the facts and circumstances, considering the submissions made by the learned counsels, the petitioners are suffering incarceration from 08.06.2020, 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 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) Thereafter, the petitioners shall execute **two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each**, before the learned Judicial Magistrate-II, Ponneri, **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 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 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/-
22/07/2020

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.II,
PONNERI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
MINJUR POLICE STATION,
THIRUVALLUR DISTRICT.

CC to M/S. ARUNA ELANGO Advocate on payment of necessary charges

CRL OP.10868/2020

Date :22/07/2020

MK:19/08/2020