

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.07.2020

CORAM :

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

Crl.O.P.No.11295 of 2020

1.Baskar
2.Thamodharan

... Petitioners

Vs.

The State rep by
The Inspector of Police,
Panamadangi P. S.
(Crime No.252 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.252 of 2020 pending on the file of the Respondent Police.

For Petitioners : Mr.S.K.Chandrakumar

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 10.06.2020 for the offences punishable under Section 147, 148, 249(b), 324, 307 and 302 IPC, in Crime No.252 of 2020, seek bail.

2. The case of the prosecution as per the defacto complainant Chinnammal is that her husband Krishnan / deceased and the 4th accused are brothers. Due to dispute between them with regard to the ancestral property, on 10.06.2020 when the defacto complainant and her husband questioned the accused about the demolition of wall in the property, there was a quarrel, during which, the 4th accused and other accused assaulted the defacto complainant's husband with wooden logs, reaper and bamboo stick, due to which, he sustained injuries and when he was taken to the hospital, he was declared brought dead.

3.The learned counsel appearing for the petitioners would submit that the 4th Accused and the deceased are brothers and there was a dispute in respect of ancestral property. The deceased put up a shed in the common passage and hence there was a dispute, during which, this incident happened. He would further submit that all the family members have been implicated in this case. He would further submit that the 1st petitioner is

the son and the 2nd petitioner is the father. The overt act attributed by them is they hit the deceased on the shoulder with a bamboo stick. He would further submit that the incident took place due to sudden quarrel and there was no intention to commit murder.

4.The learned Government Advocate (Crl. Side) would submit that the deceased and the 2nd petitioner are brothers. There was a dispute in respect of their ancestral property. On the fateful day, during the quarrel, the petitioners have assaulted the husband of the defacto complainant resulting in her husband's death. Investigation is pending.

5.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) Thereafter, the petitioners shall execute **two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each**, before the learned Judicial Magistrate, Katpadi, **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 until further orders. The petitioners shall not enter the jurisdiction 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/-
29/07/2020

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,
KATPADI

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE.[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PANAMADANGI P.S.,

5 THE SUPERINTENDENT
CENTRAL PRISON, VELLORE.

6 THE OFFICER INCHARGE,
SALEM TOWN POLICE STATION, SALEM.

+1CC to M/S. SK.CHANDRAKUMAR Advocate on payment of
necessary charges SR.NO 5802

CRL OP.11295/2020

Date :29/07/2020

GKS (MK) :31/07/2020