

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.Nos. 12806 and 13475 of 2020

S.Thamizhmaran

... Petitioner in
Crl.O.P.No.12806 of 2020

1. Abimanyu
2. Kishore
3. Athishkumar

... Petitioners in
Crl.O.P.No.13475 of 2020

Vs.

State by:

The Inspector of Police,
Thirunindravur Police Station,
Thirunindravur - 602 024.
Thiruvallur Dt.
(Crime No.546 of 2020)

... Respondent in
both the petitions

Common Prayer: Criminal Original Petitions filed under Section 439 Cr.P.C. to enlarge the petitioners on bail in Crime No.546 of 2020, on the file of the respondent police.

For Petitioner in
Crl.O.P.No.12806 of 2020 : Mr.R.Rajasekaran

For Petitioner in
Crl.O.P.No.13475 of 2020 : Mr.N.Sudharsan

For Respondent in
both the petitions : Mrs.S.Thankira
Government Advocate (Crl. Side)

C O M M O N O R D E R

(The case has been heard through video conference)

The petitioner in Crl.O.P.No.12806 of 2020 who was arrested and remanded to judicial custody on 09.07.2020 and the petitioners in Crl.O.P.No.13475 of 2020 who were arrested and remanded to judicial custody on 08.07.2020 for the offences punishable under Sections 147, 148 and 302 of IPC, in Crime No.546 of 2020 on the file of the respondent police seek bail.

2 The case of the prosecution as per the defacto complainant viz., Rani is that her husband Sundaresan was running a provision shop and that there was previous enmity between one Mahendran and one Tamilselvan living in their area and a case was registered against the said Tamilselvan. Whiles, on 08.07.2020, while the defacto complainant along with her husband was in provision shop, the said Mahendran had rushed into the shop and the accused who had followed him inside the shop had committed the murder of said Mahendran by cutting him indiscriminately with machete and knife. Hence, the complaint.

3 The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would submit that petitioner in CrI.O.P.No.12806 of 2020 was arrested and remanded to judicial custody on 09.07.2020 and the petitioners in CrI.O.P.No.13475 of 2020 were arrested and remanded to judicial custody on 08.07.2020 and they are in custody for more than 80 days. He would submit that in CrI.O.P.No.13475 of 2020, the petitioners have been arrayed as A2 to A4 and in CrI.O.P.No.12866 of 2020, the petitioner has been arrayed as A5. He would submit that A1 in this case one Tamilselvan has been detained under Act 14, 1982. He would further submit that the investigation is also over and that as far as the petitioners are concerned, they have no previous case against them. Hence, they pray to grant bail to the petitioners.

4 The learned Government Advocate (CrI.Side) appearing for the respondent would submit that there was a previous enmity between the deceased Mahendran and A1/Tamilselvan, due to which, on 08.07.2020, the petitioner along with the said Tamilselvan have chased the said Mahendran with deadly weapon and fearing the accused the victim Mahendran had run into the shop of the defacto complainant and the petitioners who have followed the said Mahendran entered into the shop attacked him indiscriminately with deadly weapons, due to which, he had suffered more than 20 injuries on his body and died at the spot. She would submit that identification parade was conducted and petitioners have been identified by the witnesses. She would submit that A1 has been detained under Act 14, 1982 and that the investigation is pending. Hence, she vehemently opposed to grant bail to the petitioner.

5 At this juncture, the learned counsel appearing for the petitioners would submit that the petitioners are prepared to abide by any stringent condition and that they are also prepared to stay away. Hence, he prays to grant bail to the petitioners.

6 Taking into consideration the facts and submissions made by the learned counsel and that the period of incarceration by the petitioners, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, each petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Thiruvallur and on further conditions that:

(b) 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;

(c) the petitioners shall stay at Virudhachalam and report before the Virudhachalam Town Police Station every day at 10.30 a.m., and 05.30 p.m., until further orders and the petitioners shall not enter into the jurisdictional limits of the respondent police.

(d) the petitioners shall not commit any offences of similar nature;

(e) the petitioners shall not abscond either during trial;

(f) the petitioners shall not tamper with evidence or witness either during 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 abscond, a fresh FIR can be registered under Section 229A IPC.

6 With the above directions, these Criminal Original Petitions are ordered.

-sd/-

29/09/2020

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, THIRUVALLUR.

2 THE OFFICER INCHARGE
SUB-JAIL, SAIDAPET, CHENNAI.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
TIRUNINDRAVUR POLICE STATION,
TIRUNINDRAVUR-602 024,
TIRUVALLUR DISTRICT.

6 THE OFFICER INCHARGE
VIRUDHACHALAM TOWN POLICE STATION,
VIRUDHACHALAM.

+1 CC to M/S.R.RAJASEKARAN Advocate on payment of necessary
charges SR.No.6524

CRL OPs.12806 & 13475/2020

Date :29/09/2020

cs 30/09/2020

सत्यमेव जयते

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