

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.09.2020

CORAM :

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

Crl.O.P.No.13143 of 2020

1.Ramadoss
2.Rajeshkumar @ Rajesh
3.Vinoth
4.Sasikumar

... Petitioners

Vs.

The State Rep. By
The Inspector of Police
Perambur Police Station,
Perambur, Nagapattinam District
(Crime No.985 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.985 of 2020 on the file of the respondent police.

For Petitioner : Mr.C.T.Saravanan

For Respondent : Mr.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 10.07.2020 for the offence punishable under **Sections 147, 148, 294(b), 324 and 506(ii) of IPC, in Crime No.985 of 2020**, on the file of the respondent police, seek bail.

2. The case of the prosecution as per the defacto complainant Napolian is that on 02.07.2020 at about 1.30 p.m., while he was on his way to his field, the first accused had called him by name and abused him with filthy language and had attempted to attack the defacto complainant with machete. Immediately, the defacto complainant had caught hold of him and slapped him. Thereafter, on the same day at about 2.30 p.m., while the defacto complainant was near his pump set, the first accused along with his friends, had come to the pump set and assaulted the defacto complainant with cricket bat and stumps. At that time, one Kaliyaperumal

S/o.Paneerselvam,Vadivel S/o.Balu, Suresh S/o.Rajendran, Victorraj S/o.Selvaraj have questioned the accused, due to which, the accused have assaulted them and also the wife of the defacto complainant who had come to the field. Based on which, originally the case was taken up in C.S.R. No.423 of 2020 on 02.07.2020 and later the case was registered in Crime No.985 of 2020 on 09.07.2020 for the offences under Sections 147, 148, 294(b), 324 and 506(ii) IPC.

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 one week after the said incident i.e.on 02.07.2020,one of the alleged victims namely one Kaliyaperumal who is said to have been assaulted by the petitioners,on 09.07.2020 died under suspicious circumstances and thereby,the respondent police had also registered a case in Crime No.984 of 2020 under Section 174 Cr.P.C. Thereafter,the respondent also registered a case in Crime No.985 of 2020 against the petitioners based on the C.S.R.No.423 of 2020 and the petitioners were arrested on 10.07.2020 and the petitioners have been in judicial custody for more than 65 days.He would further submit that on the death of Kaliyaperumal,post-mortem was conducted and the post-mortem report categorically suggested that the cause of death is due to peritonitis secondary to perforation-natural cause (Natural Death).However, now the defacto complainant taking advantage of the death of the said Kaliyaperumal, is projecting the case as a case of murder and the Sessions Court has also projected as if the respondent police are supporting the case of the petitioner. The learned Counsel for the petitioners would further submit that the mother of the first petitioner has passed away today morning and that the funeral is fixed tomorrow i.e 15.09.2020.

4. The learned Government Advocate (Criminal Side) would submit in respect of incident which took place on 02.07.2020, originally a case was registered in C.S.R.No.423 of 2020, thereafter,during the course of investigation,it was found that the injured persons namely Kaliyaperumal and Vadivel were treated as out patients in the Government Hospital, Mayiladuthurai on 02.07.2020 and they were discharged on the same day since the injury was simple in nature. After one week,one of the injured persons namely Kaliyaperumal died in a suspicious circumstances,thereby,the respondent police registered a case in Crime No.984 of 2020 under Section 174 Cr.P.C. He would submit that the body of the Kaliyaperumal was referred to Post-mortem and the Post-mortem suggests that the death is natural.However, the defacto complainant is insisting that the injury caused by the accused is the triggering point for the cause of the death. He would further submit that the investigation is pending. Hence, he vehemently opposed for grant of bail to the petitioners.

5. This Court earlier taking into consideration the observations made in the dismissal order passed by the the lower Court, had called for report from the Superintendent of Police, Mayiladuthurai District and the report is received today. It is taken on record.

6. Heard both sides. Perused the materials on record and also the report by the Superintendent of Police, Mayiladuthurai.

7. Taking into consideration of the facts and circumstances and the submissions made by the learned counsels and considering the period of incarceration of the petitioners from 10.07.2020, 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) before the Superintendent of the concerned prison, in which the petitioners have been confined;

(b) Thereafter, the petitioners shall execute a separate bond for a sum of **Rs.10,000/- (Rupees Ten Thousand Only)** with two sureties, each for a like sum to the satisfaction of the **learned Judicial Magistrate-II, Mayiladuthurai, within a period of two weeks from the date of commencement of the Court's normal functioning**, 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 on their release from prison, shall **report before the respondent police daily at 05.30 p.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 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/-

14/09/2020

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-II, MAYILADUTHURAI

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM DISTRICT [FOR INFORMATION]

3 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY

4 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
PERAMBUR POLICE STATION, PERAMBUR,
NAGAPATTINAM DISTRICT.

6 THE OFFICER INCHARGE, SUB-JAIL, SORKALI.

CC to M/S.C.T.SARAVANAN Advocate on payment of necessary charges

CRL OP.13143/2020

Date :14/09/2020

GKS:17/09/2020