

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.09.2020

CORAM :

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

Crl.O.P.No.13516 of 2020

1. Saranraj
2. Vijay

...Petitioners

-Vs.-

The Inspector of Police,
Sriperumbudur Police Station,
Sriperumbudur,
Kancheepuram Dt.
(Crime No.1973 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail pending investigation in Crime No.1973 of 2020 on the file of Sriperumbudur Police Station, Sriperumbudur, Kancheepuram District.

For Petitioners : Mr.R.Rajasekaran

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

O R D E R

(This case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 09.08.2020 for the offences punishable under Section 302, 147, 148, 294(b), 341, 323, 324, 506(ii) and 307 IPC, in Crime No.1973 of 2020, seek bail.

2.The case of the prosecution as per the defacto complainant one Revathy is that her cousin brother John Rose, who was living with her completed his 10th standard and was working in a Private Company and that on 26.06.2020, his friend one Eli @ Kathick had come to her house and had taken her brother and that her brother did not return that night. On the next day she enquired Eli @ Karthick about her brother, he replied that he is not aware of her brother's whereabouts. Thereafter, a complaint was given to the respondent on 03.07.2020. Based on her complaint, a case in Crime No.1973 of 2020 was registered under the caption "Man missing". During the course of investigation, it came to light that the accused suspecting Eli @ Karthick and the deceased John Rose to be friends of one Velmurugan,

have assaulted them indiscriminately, due to which, John Rose died on 26.06.2020 at night hours and that the accused have thrown the body of the deceased inside a bush near Hudson Hotel. On 07.07.2020, the body of John Rose found near the bush of Hudson Hotel. Thereafter, one Raguman of Pondur Village was arrested on suspicion and later, based on his confession, the case was altered to one under Section 302 IPC.

3.The learned counsel appearing for the petitioners would submit that the petitioners have been falsely implicated in this case based on the alleged confession said to have been given by Raguman. He would further submit that even as per the alleged confession of Raguman, the petitioners along with Mohan were enquiring one Velmurugan and at that time, the said Velmurugan had called somebody over phone. Thereafter two persons viz. Eli @ Karthick and John Rose had come there and the accused suspecting them to be friends of Velmurugan, had attacked them due to which the said John Rose died. Further, as per the statement recorded from Eli @ Karthick on 08.07.2020, he is alleged to have told the respondent that he was brutally assaulted by the accused and he sustained injuries and that he was taken in a Innova car and that on the way, Sriperambadur Police had seen him with the accused and thereafter, on the advice of Sriperambadur Police, he was taken to Government Hospital, Sriperambadur, by the accused where he was given treatment. He would further submit that there is no eye witness to the occurrence and except the alleged confession statement stated to be recorded from Raguman and another statement recorded from the Eli @ Karthick on 08.07.2020, there is no other material to implicate the petitioners in the crime. He would further submit that even per the defacto complainant, the deceased John Rose is said to have gone along with Eli @ Karthick and that it is the very own statement of the defacto complainant that she had met Eli @ Karthick on the next day and when she asked him about her brother, Eli @ Karthick had not stated anything about the incident. He would further submit that if it had been true, Eli @ Karthick should have informed the respondent police and Revathy about the fate of John Rose. It is unbelievable that a person who has sustained severe injuries and seeing his friend murdered will keep quiet for several days. Whereas, the respondent police for the reasons best known to them, tried to protect Eli @ Karthick and falsely implicated the petitioners in this case. Further, Revathy who has seen Eli @ Karthick on the next day, has not stated that Eli @ Karthick was injured. He would submit that the petitioners are A9 and A10 and that the main accused in this case have been granted bail in CrI.OP.Nos.12326 and 12771 of 2020 on 26.08.2020. Hence, he prays for granting bail to the petitioners.

4. The learned Government Advocate (CrI. Side) appearing for the petitioners would submit that on 03.07.2020 the respondent police have registered a case in Crime No.1973 of 2020 for the offences under Section "Man missing" on the complaint given by one Revathy. On 09.07.2020, the respondent police arrested one Rahman on suspicion. During the course of investigation, he confessed that he along with other accused was enquiring one Velmurugan, the said Velmurugan ran away from that area and when they were searching for

Velmurugan and his friend, they had seen Eli @ Karthick and John Rose and suspecting that they are the associates of Velmurugan and they have assaulted them due to which, they sustained injuries and John Rose succumbed to the injuries. He would further submit that apart from the alleged statement, they have also recorded statement from Eli @ Karthick, wherein, he had stated about the occurrence.

5. Heard the Counsels and perused the materials available on record.

6. Taking into consideration of the facts and circumstances of the case and also considering the submissions made by the learned counsels and the period of incarceration suffered by the petitioners, 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) the petitioners shall within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned District Munsif cum Judicial Magistrate, Sriperumbudur, 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 everyday at 10:30 a.m and 5.30 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)

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
02/09/2020

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 DISTRICT MUNSIF-CUM-
JUDICIAL MAGISTRATE,
SRIPERUMBUDUR.

2 THE SUPERINTENDENT,
CENTRAL PRISON,
PUZHAL, CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
SRIPERUMBUDUR POLICE STATION,
SRIPERUMBUDUR,
KANCHEEPURAM DISTRICT.

CC to M/S.R.RAJASEKARAN Advocate on payment of necessary charges

WEB COPY

CRL OP.13516/2020

Date :02/09/2020

cs 08/09/2020