

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.14214 of 2020

1.Sivanmalai
2.Kathirvel

... Petitioners

Vs.

The State By
The Inspector of Police
Arachalur Police Station,
Erode District.
Crime No.600 of 2020

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in connection with the case in Crime No.600 of 2020 on the file of the respondent police.

For Petitioner : Mr.I.C.Vasudevan

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 29.06.2020 for the offence punishable under **Section 302 IPC, in Crime No.600 of 2020**, on the file of the respondent police, seek bail.

2. The case of the prosecution as per the defacto complainant Devaraj is that prior to the incident, the father of the defacto complainant suspected that the wife of the second petitioner had stolen Rs.3,000/- from him due to which, there was a quarrel between the second petitioner and the father of the defacto complainant. The further allegation is that due to that enmity, the accused had entered into the house of the defacto complainant's father and committed murder of the defacto complainant's father with sharp edged weapon.Hence, the complaint.

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 submit that it is a case of circumstantial evidence where there is no eyewitness to the occurrence.Even as per the case of the prosecution, the

petitioners are said to have voluntarily surrendered before the Village Administrative Officer and thereafter, they have been produced before the respondent police. He would submit that the petitioners have been suffering incarceration from 29.06.2020 and the major part of investigation is over. Hence, he prays for grant of bail to the petitioners.

4. The learned Government Advocate (Criminal Side) would submit that the deceased suspected that the wife of the second petitioner to have committed theft of Rs.3,000/- from him due to which, there was previous enmity between them. While so, on the fateful day, the accused entered into the house of the defacto complainant's father and committed murder of the defacto complainant's father. He would further submit that the investigation is pending. Hence, he vehemently opposed for the grant of bail to the petitioners.

5. 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 29.06.2020, 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) 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, Erode, 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 stay at Tiruppur and report before the Inspector of Police, North Police Station, daily at 10.30 a.m. until further orders. The petitioners shall not enter into the jurisdictional limits of the respondent police 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, ERODE

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE DISTRICT [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

4 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

5 INSPECTOR OF POLICE,
ARACHALUR POLICE STATION, ERODE DISTRICT.

6 INSPECTOR OF POLICE,
NORTH POLICE STATION, THIRUPPUR

CC to M/S. I.C.VASUDEVAN Advocate on payment of necessary charges

CRL OP.14214/2020

Date :14/09/2020

GKS:17/09/2020