

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.Nos.14283, 14286 and 14294 of 2020

Kamaraj

... Petitioner in
Crl.O.P.No.14283 of 2020

Gokulnath

... Petitioner in
Crl.O.P.No.14286 of 2020

Arun @ Mari

... Petitioner in
Crl.O.P.No.14294 of 2020

Vs.

The State Rep by its
The Inspector of
Police Avadi Police
Station Chennai
(Crime No.1061 of 2020)

... Respondent in all Crl.O.Ps

COMMON PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in connection with Crime No.1061 of 2020 on the file of the respondent police.

For Petitioner : Mr.D.Padmanabhan

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 26.08.2020 for the offence punishable under **Sections 452, 294(b), 342, 324, 307, 506(ii) of IPC, in Crime No.1061 of 2020**, on the file of the respondent police, seek bail.

2. The case of the prosecution as per the defacto complainant Manoj is that on 26.08.2020, when the defacto complainant had gone to the house of his childhood friend, the accused had entered into his friend's house and had assaulted him brutally with knife due to which, he sustained five cut injuries and his throat was also slit. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioner in CrI.O.P.No.14283 of 2020 is arrayed as A1, the petitioner in CrI.O.P.No.14286 of 2020 is arrayed as A2 and the petitioner in CrI.O.P.No.14294 is arrayed as A3. Even as per the F.I.R., earlier the victim had assaulted the first accused with knife in respect of which, the victim was in jail. Thereafter, he came out of jail three days prior to the occurrence. Even in the allegation only A1 and A2 are stated to have caused injuries and as far as the 3rd accused is concerned, neither his name nor any overt-act is assigned to him and there is only a mention of two accused in this case and that the entire case is foisted one. He would submit that the petitioners are suffering incarceration from 26.08.2020 and hence, he prays for grant of bail to the petitioners.

4. The learned Government Advocate (Criminal Side) would submit that due to previous enmity, the accused entered into the house of the defacto complainant's friend and attacked the defacto complainant with knife due to which, he sustained serious injuries. He would submit that the accused had also slit the throat of the victim. Hence, he vehemently opposed for grant of bail to the petitioners.

5. At this juncture, the learned Counsel for the petitioners would reiterate that as per F.I.R. the allegations are only against A1 and A2 and there is absolutely no allegation against the petitioner in CrI.O.P.No.14294 of 2020 who is arrayed as A3.

6. In reply, the learned Government Advocate (CrI. Side) would submit that as far as A3 is concerned, he has stayed outside and he had kept watch over the area. He would further submit that as far as the first accused is concerned, there are four previous cases and he is a history sheeter. As far as the second petitioner is concerned, he is also alleged to have assaulted the defacto complainant.

7. Taking into consideration of the facts and circumstances and the fact that A1 is a history sheeter and A2 is also entered into the house and assaulted the defacto complainant, this Court is not inclined to grant bail to A1 and A2. Accordingly, **the petitions for bail in CrI.O.P.No.14283 of 2020 and CrI.O.P.No.14286 of 2020 stand dismissed.**

8. As far as A3 / the petitioner in CrI.O.P.No.14294 of 2020 is concerned, his name is not found in the F.I.R. and there is no allegation against the petitioner as if the petitioner attacked the victim. Therefore, considering the period of incarceration of the petitioner from 26.08.2020, this Court is inclined to grant bail to A3 / the petitioner in CrI.O.P.No.14294 of 2020 subject to the following conditions:

(a) Accordingly, the petitioner in CrI.O.P.No.14294 of 2020 is ordered to be released on bail on condition to execute his 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 petitioner in CrI.O.P.No.14294 of 2020 shall execute a 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, Poonamallee, 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 petitioner on his release from prison, shall stay at Dindivanam and report before the Inspector of Police, Dindivanam Town Police Station, daily at 10.30 a.m. and 5.30 p.m. until further orders. The petitioner shall not enter into the jurisdictional limits of the respondent police until further orders.**

(e) the petitioner shall not commit any offences of similar nature;

(f) the petitioner shall not abscond either during investigation or trial;

(g) the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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.

9. 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,
POONAMALLEE

2 THE CHIEF JUDICIAL MAGISTRATE
EGMORE, CHENNAI [FOR INFORMATION]

3 THE JAILER, SUB JAIL, THIRUVALLUR

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
AVADI POLICE STATION, CHENNAI

6 THE INSPECTOR OF POLICE,
DINDIVANAM TOWN POLICE STATION,
DINDIVANAM

+1 CC to M/S.D.PADMANABHAN Advocate on payment of necessary charges SR.NO.6273

CRL OP.14283,14286 and 14294 of 2020

Date :14/09/2020

GKS:17/09/2020