

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.09.2020

CORAM :

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

CRL.O.P.No.14843 of 2020

1. Saravanan
2. Prem Kumar

... Petitioners

Vs.

The State rep. by
The Inspector of Police,
Mailam Police Station,
Tindivanam Taluk
Villupuram District
(Crime No.1502 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail, pending investigation in Crime No.1502 of 2020 on the file of the respondent police.

For Petitioners : Mr.Ajay Kumaran.B

For Respondent : Ms.S.Thankira
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 03.09.2020 for the offences punishable under Sections 147, 148, 448, 294(b), 341, 324, 307 of the Indian Penal Code r/w Section 3 of the Tamilnadu Public Property Prevention of Damage and Loss Act, 1992, in Crime No.1502 of 2020, seek bail.

2. The case of the prosecution as per the defacto complainant one Santha is that the petitioners suspected that the brother of her husband is responsible for the murder of the son of the 1st accused and thereby, the petitioners along with other accused assaulted the brother-in-law of the defacto complainant and also caused damages to the household articles. 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 further submit that on 31.08.2020, the son of the 1st Accused one Ashok Kumar died in a suspicious circumstances and some cut injuries were found in the body and there was a strong suspicion that the complainant's brother-in-law would have committed the murder. Hence, as a preventive measure, the petitioners were arrested on 06.09.2020. He would further submit that the injured has been discharged from the hospital. Hence, he prays for grant of bail to the petitioners.

4.The learned Government Advocate (Criminal Side) would vehemently oppose stating that the son of the 1st Accused one Ashok Kumar died in a suspicious manner and the petitioners suspected that the brother of the defacto complainant's husband would have committed the murder. Hence, they formed unlawful assembly and assaulted the defacto complainant's brother-in-law namely Kanniyappan and also caused damages to the household articles. She would further submit that though the victim has been discharged from the hospital, tension prevails in the village.

5.At this juncture, the learned Counsel for the petitioners would submit that the son of the 1st Accused died very recently and the 16th day ceremony to be conducted and as a family members, they have to participate in the ceremony and that the petitioners are prepared to abide by any stringent condition.

6.Taking into consideration of the facts and circumstances, the submissions made by the learned counsels and considering the fact that the injured has been discharged from the hospital and also considering 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) before the Superintendent of the concerned prison, in which the petitioners have been confined;

(b) Thereafter, the petitioners shall 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.2, Tindivanam, 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 are permitted to attend the 16th day ceremony of the 1st Accused son on 24th and 25th of September 2020. After attending the said ceremony, from 26th September 2020, the petitioners shall stay at Chennai and report before the Koyambedu Police Station 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)AIR SCW 5560];

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

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-
23/09/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

सत्यमेव जयते
TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.2, TINDIVANAM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VILLUPURAM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MAILAM POLICE STATION,
TINDIVANAM TALUK,
VILLUPURAM DISTRICT.

5 THE OFFICER INCHARGE
KOYAMBEDU POLICE STATION
CHENNAI.

+1 CC to M/S. AJAY KUMARAN.B Advocate on payment of necessary
charges SR.No.6391

cs 25/09/2020

CRL OP.14843/2020

Date :23/09/2020



WEB COPY