

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.Nos.15770 & 16486 of 2020

1.Vetri @ Vetrinmurugan ... Petitioners in Crl.O.P.No.15770/2020

2.Mohan @ Mohanraj

Midhun @ Midhunkumar ... Petitioner in Crl.O.P.No.16486/2020

Vs.

State rep by ...Respondent in Crl.O.P.No.15770/2020

The Inspector of Police,
S.H.O. Vadalur Police Station,
Vadalur,
Cuddalore District.
Crime No.294 of 2019.

State rep by ... Respondent in Crl.O.P.No.16486/2020

The Inspector of Police,
Vadalur Police Station,
Cuddalore District.
Crime No.294 of 2019.

Common Prayer: Criminal Original Petitions are filed under Section 439 Cr.P.C. to enlarge the petitioners on bail in respect of P.R.C.No.3 of 2020 on the file of the District Munsif cum Judicial Magistrate, Kurinjipadi, Cuddalore District.

For Petitioners: Mr.S.Anburaja

(in Crl.O.P.No.15770/2020)

Mr.N.Sudharsan

(in Crl.O.P.No.16486/2020)

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (Crl. Side)
(in both Crl.O.Ps)

COMMON ORDER

(These cases have been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 20.11.2019 and 18.11.2019 for the offences punishable under **Sections 120(B), 147, 148, 352, 324, 326, 307 and 302 IPC r/w 149 of IPC, in Crime No.294 of 2019**, on the file of the respondent police, seek bail.

2.The case of the prosecution as per the defacto complainant Udhayakumar is that the accused due to previous enmity, committed the murder of his brother-in-law Amarnath while he was returning from jail after being acquitted by the Court in a murder case.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case based on the confession of the arrested accused whose names are found in the F.I.R. The learned Counsel would submit that the names of the petitioners does not find place in the F.I.R. However, they were arrested and remanded to judicial custody on 20.11.2019 and 18.11.2019 respectively and they have been suffering incarceration for more than a year. The learned Counsel would further submit that the investigation has been completed and the final report has been filed and the case was initially taken on file in P.R.C.No.3 of 2020. Thereafter, since some of the accused were absconding, the case as against these petitioners have been split up and committed to the Court of Sessions for trial in S.C.No.55 of 2020. He would further submit that the petitioners have to engage Counsel to defend their case during trial and that they are prepared to abide by any stringent condition. Hence, he prays for grant of bail.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioners due to previous enmity on account of gang rivalry, committed the murder of one Amarnath. He would further submit that insofar as the petitioners in Crl.O.P.No.15770 of 2020 are concerned, the first petitioner has got one previous case registered at Muthialpet Police Station for the offence under Section 307 IPC and the second petitioner has no previous case and that the petitioner in Crl.O.P.No.16486 of 2020 has also no previous case against him. He would further submit that though the petitioners names are not found in the F.I.R., they also participated in the offence which has been confirmed by the statement of the other accused. He would further submit that some of the accused who were granted bail, did not appear before the lower Court. Thereby, NBW has been issued against them and insofar as these petitioners are concerned, the case has been split up and it has been committed to the Court of Sessions in S.C.No.55 of 2020 by the learned Principal District and Sessions Judge, Cuddalore.

5. Taking into consideration of the facts and submissions made by the learned counsels and the fact that the case has been committed to the Court of Sessions and also considering the period of incarceration suffered by the petitioners from 20.11.2019 and 18.11.2019 respectively, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, **the petitioners in Crl.O.P.No.15770 of 2020** are ordered to be released on bail on condition to execute a separate bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) with two sureties, each for a like sum to the satisfaction of the **learned District Munsif Cum Judicial Magistrate, Kurinjipadi, Cuddalore District,** and

the petitioner Crl.O.P.No.16486 of 2020 is ordered to be released on bail on condition to execute a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) with two sureties, each for a like sum to the satisfaction of the **learned Judicial Magistrate, Kurinjipadi,** and on further conditions that:

(b) 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;

(c) **the petitioners shall appear before the learned Principal District and Sessions Judge, Cuddalore, on all working days at 10.30 a.m. until further orders.**

(d) the petitioners shall not commit any offences of similar nature;

(e) the petitioners shall not abscond either during investigation or trial;

(f) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(g) 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];

(h) 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/-

19/11/2020

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 PRINCIPAL DISTRICT
AND SESSIONS JUDGE, CUDDALORE,

2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
KURINJIPADI, CUDDALORE DISTRICT.

3 THE JUDICIAL MAGISTRATE,
KURINJIPADI.

4 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE. [FOR INFORMATION]

5 THE INSPECTOR OF POLICE,
S.H.O.VADALUR POLICE STATION,
VADALUR,
CUDDALORE DISTRICT.

6 THE INSPECTOR OF POLICE,
VADALUR POLICE STATION,
CUDDALORE DISTRICT.

7 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

8 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

+1 CC to M/S.S.ANBURAJA Advocate on payment of necessary
charges SR.NO.7639

+1 CC to M/S.N.SUDHARSAN, Advocate on payment of necessary
charges SR.NO.7687

CRL OP.15770 & 16486/2020

Date :19/11/2020

TA-20/11/2020

<https://hcservices.ecourts.gov.in/hcservices/>