

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.16477 of 2020

1.Muthuvedi
2.Raji
3.Sabariselvan
4.Suresh Kumar
5.Rajamani

... Petitioners

Vs.

The State rep by
The Inspector of Police,
Mahendramangalam Police Station,
Dharmapuri District.
(Crime No.759 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to grant bail to the petitioner/Accused in Crime No.759 of 2020 on the file of the respondent.

For Petitioner : Mr.K.Gandhi Kumar

For Respondent : Mr.Barathachakravarthy
Public Prosecutor, Puducherry

O R D E R

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 24.08.2020 for the offences punishable under Sections 364, 302 of IPC, in Crime No.759 of 2020 on the file of the respondent police, seek bail.

2.The case of the prosecution as per the railway staff is that on 22.02.2020, a dead body of a 45 year old man was found on the track and based on the information, a case was registered by the railway police in Crime No.46 of 2020 under Section 174 Cr.P.C. Later, during the course of investigation, it was found that the deceased is one Palani and he was murdered and thrown on the track. Thereby, the case was transferred to the Inspector of Police, Mahendramangalam Police Station and the same was registered in Crime No.759 of 2020 for offence under Section 364 and 302 IPC. During the course of investigation, it came to light that it was case of retaliatory murder for revenge. Earlier, the deceased Palani had committed the murder of the husband of the first petitioner one Arumugam since, he had illicit intimacy with the wife of the deceased Palani in the year 2019. As a retaliation, the petitioners have conspired and kidnapped the deceased Palani and committed the murder and thereafter, thrown the body on the railway track to project as if it was an accident.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case on suspicion. He would submit that the said Palani had died on 21.02.2020 and there was no complaint from any quarters including the family members of the deceased. Strangely, after a period of six months, on 24.08.2020 the petitioners were arrested and based on their confession the case was altered to Sections 364 and 302 IPC. He would further submit that there is no eye witness to the occurrence and other than the alleged confession recorded from the accused there is no other material to fix the petitioners in the crime. He would submit that the petitioners have been suffering incarceration from 24.08.2020 and that the first petitioner has been suffering from serious ailments. Hence, he prays for grant of bail.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that it is a case of retaliatory murder. The first petitioner's husband Arumugam was murdered by the deceased Palani since, he had illicit intimacy with the wife of Palani. As a retaliation, the petitioners conspired together and taken the deceased near the railway track and committed the murder and thereafter, laid the body on the track to project as if, it was an accident. He would further submit that the petitioners were tracked based on their movements and their call records and tower locations. He would submit that the investigation is pending.

5. Taking into consideration of the facts and circumstances of the case and submissions made by the learned counsels 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 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, Palacode 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 stay at Chennai and report before the Flower Bazaar 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.

(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, this Criminal Original Petition is ordered.

-sd/-

03/11/2020

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 JUDICIAL MAGISTRATE,
PALACODE

2 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI DISTRICT. (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MAHENDRAMANGALAM POLICE STATION,
DHARMAPURI DISTRICT

5 THE OFFICER INCHARGE,
FLOWER BAZAAR POLICE STATION, CHENNAI

6 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

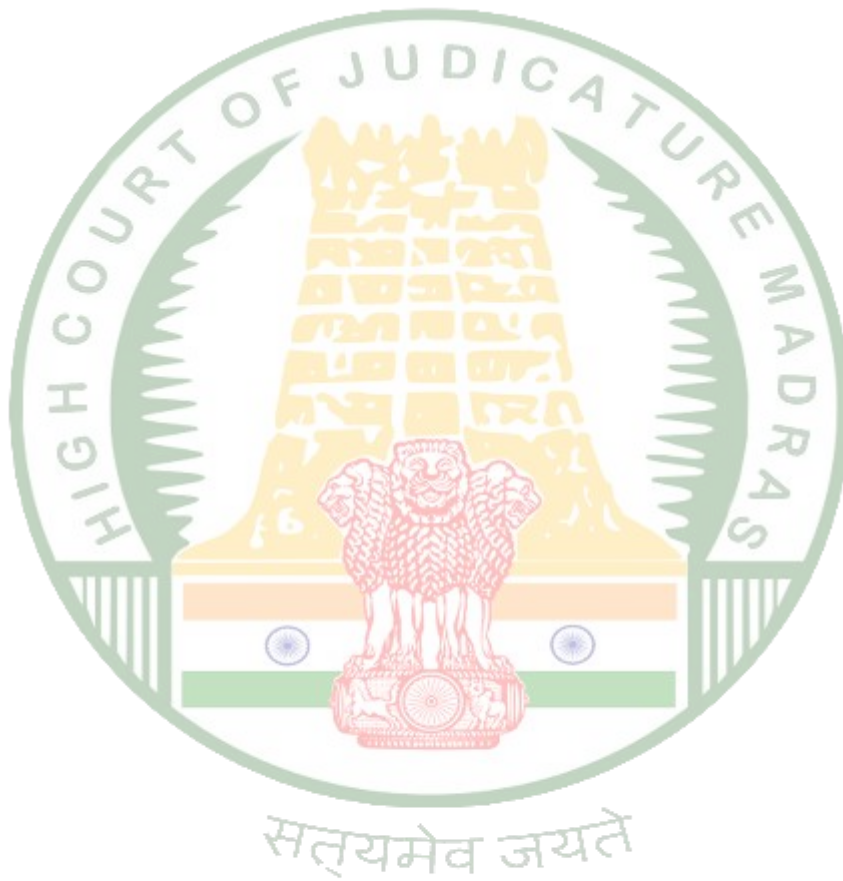
7 THE SUPERINTENDENT,
WOMEN PRISON, SALEM.

CC to M/S. K.GANDHI KUMAR Advocate on payment of necessary
charges Sr.7218

CRL OP.16477/2020

Date :03/11/2020

RVR 04/11/2020



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