

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2020

CORAM :

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

CRL.O.P.No.16832 of 2020

1. Madhan
2. Raj @ Arputharaj
3. Appu
...Petitioners

Vs.

State Rep. By
The Inspector of Police
J-4, Kotturpuram Police Station
Chennai - 85
In Cr.No.988 of 2020
... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.988 of 2020 on the file of the respondent police.

For Petitioner : Mr.J.Thooyamani

For Respondent : Mr.T.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 10.09.2020 for the offence punishable under Section 174 Cr.P.C. altered to 302 IPC in Crime No.988 of 2020, on the file of the respondent police, seek bail.

2.The case of the prosecution as per the defacto complainant Chandran is that on 08.09.2020 at about 10.15 p.m. he was informed that his son had been assaulted by the accused persons. When he rushed to the spot, he found his son lying on the floor. Since, the victim was also found in an inebriated state, the defacto complainant had taken him to the his house with the help of his friends where he had vomited once in the night. Thereafter, in the morning, the victim did not wake up from his sleep and when the doctor was called to give medical aid, the defacto complainant was informed that his son had already died. Later, on information from his friends, he came to know that during a quarrel, the accused have pushed the deceased and assaulted him due to which, he fell down and sustained injuries and that while he was lying, the accused have also trampled and kicked him on his stomach and chest. Originally, the case was registered for offence under Section 174 Cr.P.C. and later it was altered into Section 302 IPC.

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 even as per the F.I.R., the defacto complainant is only an hearsay witness to the occurrence and admittedly no weapon has been used. He would further submit that the first petitioner is studying BBA in Guru Nanak College, the second petitioner is doing B.E. in Madha Engineering College and the third petitioner is the father of the first and second petitioners and that he is a Mason. He would further submit that the petitioners have been suffering incarceration from 10.09.2020. Hence, he prays for grant of bail to the petitioners.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that due to previous enmity, the petitioners pushed the deceased due to which he fell down and sustained injury on his head and when he was lying down, the petitioners have trampled on his stomach and chest due to which the victim died. He would further submit that the investigation has been completed and the charge sheet has been filed and the same has been taken on file in P.R.C.No.47 of 2020 on the file of the IX Metropolitan Magistrate, Saidapet.

5. Taking into consideration the above facts and circumstances of the case and the submissions made by the learned Counsels and the fact that the investigation has been completed and final report has been filed and also considering the period of incarceration suffered by the petitioners from 10.09.2020, 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 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 IX Metropolitan Magistrate, Saidapet, Chennai-15, 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 on their release from prison, shall report before the IX Metropolitan Magistrate, Saidapet, Chennai-15, everyday 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, this Criminal Original Petition is ordered.

-sd/-

28/10/2020

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 METROPOLITAN MAGISTRATE NO.IX,
SAIDAPET, CHENNAI-15.

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

3 THE JAILER,
SUB JAIL, SAIDAPET, CHENNAI-15.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
J-4 KOTTURPURAM POLICE STATION,
CHENNAI-85.

+1CC to M/S.J.THOOYAMANI Advocate on payment of necessary charges SR NO.7080

CRL OP.16832/2020

Date :28/10/2020

MK:29/10/2020