

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.Nos.17173 & 17199 of 2020

1.Sathish @ Sathish Kumar
2.Senthil Kumar
3.Karunanithi

... Petitioners in Crl.O.P.No.17173 of 2020

1.Sarvanan
2.Kabilar
3.Thilakar
4.Lakshmanan
5.Suman Raj

... Petitioners in Crl.O.P.No.17199 of 2020

Vs.

The State Rep. By:
The Inspector of Police,
Puthur Police Station,
Cuddalore District.
Crime No.602 of 2020

... Respondent in all Crl.O.Ps

Common Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioners on bail in Crime No.602 of 2020 pending investigation before the respondent police station.

In Both the Petitions

For Petitioners : Mr.D.Dayalan

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

COMMON ORDER

(These cases have been heard through video conference)

The petitioners were arrested and remanded to judicial custody on 22.08.2020 for the offences punishable under Sections 147, 148, 341, 324, 506(ii) and 302 of Cr.P.C. 1860, in Crime No.602 of 2020 on the file of the respondent police, seek bail.

2.The case of the prosecution as per the defacto complainant Nagarajan is that there was enmity between the petitioners and the defacto complainant in respect of sticking posters due to which, the accused assaulted the brother of the defacto complainant Rajendran with iron rods and wooden logs resulting in him sustaining serious injuries. Immediately, he as taken to RMMCH Hospital, Chidambaram, and while he was under treatment, he passed away without responding to the treatment.

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 submit that the petitioners and the defacto complainant belong to a rival political party and in respect of sticking of posters, there was a quarrel between them and on 22.08.2020 at about 17.30 hours, the defacto complainant along with his associates, had come to the house of the petitioners and assaulted the first accused and his family members. Thereafter, based on the complaint given by the first accused, a case was registered against the defacto complainant in Crime No.603 of 2020 for offence under Section 147, 148, 294(b), 324 and 506(ii) and 307 IPC and the incident happened only when the defacto complainant and his men came to the house of the petitioners and assaulted them. In fact the defacto complainant and his men are the aggressors and the incident happened in front of the house of the petitioners and the petitioners have retaliated only in defence for self protection. He would submit that the petitioners have been suffering incarceration for more than 70 days and that the major part of investigation is over. He would further reiterate that it is a case and case in counter. 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 it is a case of retaliatory attack. The petitioner and the defacto complainant belong to different political party and there was a quarrel between them due to which, the petitioners assaulted the defacto complainant's brother with iron rods and wooden logs resulting in him sustaining injuries and he died while he was under treatment. He would further submit that the investigation has been completed and charge sheet has been filed before the District Munsif cum Judicial Magistrate, Kattu Mannar Koil and it has not been taken on file.

5. At this juncture, the learned Counsel for the petitioners would submit that A1 in this case has been detained under Act 14 of 1982 and the petitioners in Crl.O.P.No.17173 of 2020 are arrayed as A2, A3 and A9 and the petitioners in Crl.O.P.No.17199 of 2020 are arrayed as A4 to A8 and that the petitioners are prepared to abide by any stringent condition.

6.Taking into consideration of the facts and circumstances of the case and the submissions made by the learned counsels and the fact that it is a case and case in counter and also considering the period of incarceration undergone 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.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, Kattumannarkoil, 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 stay at Nagarcoil and report before the Kottar Police Station, everyday at 10.30 a.m. and 5.30 p.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.

7. 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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, KATTUMANNARKOIL

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

4 THE INSPECTOR OF POLICE,
PUTHUR POLICE STATION,
CUDDALORE DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

6 THE OFFICER INCHARGE,
KOTTAR POLICE STATION,
NAGARCOIL.

+4 CC to M/S. D.DAYALAN Advocate on payment of necessary
charges Sr.Nos.7212 & 7211

Crl.O.P.Nos.17173 & 17199 of 2020

Date :03/11/2020

RVR 04/11/2020



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