

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.11.2020

CORAM :

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

CRL.O.P.Nos.17398 and 17401 of 2020

SATE RUBIDHEEN

... Petitioner in Crl.O.P.No.17398/2020

SHAHUL HAMEED

... Petitioner in Crl.O.P.No.17401/2020

Vs.

The State represented by
Inspector of Police,
North Police Station,
Tiruppur District.
(Crime No.4 of 2020)

... Respondent

PRAYER: Criminal Original Petitions filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in connection with P.R.C.No.16 of 2020, pending Trial on the file of the Judicial Magistrate No-I, Tiruppur.

For Petitioners : Mr.R.Sankarasubbu (in both cases)

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

ORDER

(The cases have been heard through video conference)

The petitioners who were arrested and remanded to judicial custody on 12.01.2020 for the offences punishable under Sections 294(b), 302, 506(ii) of IPC, in Crime No.4 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant Viz. Eswari is that there was a financial dispute between her younger brother Suresh and Abdul Kadar, due to which, on 01.01.2020, the said Abdul Kadar along with his employees Nagaraj and Shahul Hameed and others, assaulted her brother with iron pipes, due to which, her brother sustained injuries and fell down unconsciously. When he was taken to the hospital, he was declared brought dead. Hence the

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocents and they have been falsely implicated in this case as A4 and A3. He would submit that the petitioners were arrested on 12.01.2020. Later, the petitioners were detained under Act 14 of 1982 pursuant to the order passed by the Commissioner of Police, Tiruppur City and thereafter, the petitioners filed H.C.P. following which, the detention was quashed by this Court. He would further submit that co-accused in this case has been granted bail by this Court in CrI.O.P.No.17089 of 2020 dated 02.11.2020 and that the that the petitioners have been suffering incarceration for more than 8 months from 12.01.2020. Hence, he prays for grant of bail to the petitioners.

4.The learned Government Advocate (CrI.Side) appearing for the respondent would vehemently oppose stating that the petitioners along with other accused had assaulted the brother of the defacto complainant with iron pipes, due to which, he succumbed to injuries. He would further submit that the investigation has been completed and a charge sheet has been laid in P.R.C.No.16 of 2020 before the learned Judicial Magistrate-I, Tirupur and the case stands posted on 24.11.2020 for hearing.

5.Heard the learned Counsel on either side. Perused F.I.R. and other materials placed on record.

6.Taking into consideration of the facts and submissions made by the learned counsels and the period of incarceration suffered by the petitioners and the fact that the investigation has been completed and P.R.C.16 of 2020 is taken on file and also considering the fact the co-accused in this case have been enlarged on bail, 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-I, Tiruppur 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 learned Judicial Magistrate-I, Tiruppur 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.

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

-sd/-

05/11/2020

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,
NO.I, TIRUPPUR.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
NORTH POLICE STATION,
TIRUPPUE DISTRICT.

CC to M/S.R.SANKARASUBBU Advocate on payment of necessary charges

CRL OPs.17398 & 17401/2020

Date :05/11/2020