

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.Nos.17393 & 17394 of 2020

1.Dinesh @ Dinesh Kumar

2.Gokul

... Petitioners in Crl.O.P.No.17393 of 2020

Balaji

... Petitioner in Crl.O.P.No.17394 of 2020

Vs.

State rep.by

Inspector of Police,

Maraimalai Nagar Police Station,

Crime No.4195 of 2020

... Respondent in both Crl.O.Ps

Common Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioners on bail in Crime No.4195 of 2020 pending investigation before the respondent police station.

In Both the Petitions

For Petitioners : Mr.L.Ramu

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 19.08.2020 for the offences punishable under Sections 147, 148, 341 & 302 of IPC, in Crime No.4195 of 2020 on the file of the respondent police, seek bail.

2.The case of the prosecution as per the defacto complainant Kanniyappan is that that his son Niranjan was working as a Tattoo Artist and he developed friendship with one Amala Devi/A2. Later, they had misunderstanding and the said Amala Devi developed intimacy with one Dinesh/A1. When the defacto complainant's son had approached her, she had instigated the other accused and the other accused threatened the deceased stating not to come and meet Amala Devi and saying so, on 18.08.2020, the first accused along with other accused assaulted the defacto complainant's son with wooden log and sticks due to which, he sustained injuries and died on the spot.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocents and they have been falsely implicated in this case. He would submit that the deceased had threatened the Amala Devi/A2 who is a married woman and thereby,

there was some dispute between them due to which, the petitioners have been falsely implicated in this case. He would submit that the petitioners were arrested on 19.08.2020 and they have been suffering incarceration for more than 45 days and that the petitioners 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 are the associates of A2/Amala Devi who is a married woman. She had developed intimacy with the deceased Niranjan and later, she developed intimacy with A1. Thereby, enmity arose between them and on 18.08.2020, on the instigation of the said Amala Devi, the petitioners along with other accused assaulted the deceased due to which, he sustained grievous injuries and died on the spot. He would further submit that the investigation is pending.

5.Heard the learned counsel on either side and perused F.I.R.

6.Taking into consideration of the facts and circumstances of the case and the submissions made by the learned counsels 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.10,000/- (Rupees Ten Thousand only) each, with two sureties each for a like sum to the satisfaction of the Learned Judicial Magistrate No-II, Chengalpattu, 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 Madurai and report before the Thallakulam 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/-

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.II, CHENGALPATTU

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
MARAIMALAI NAGAR POLICE STATION,

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI

6 THE OFFICER INCHARGE,
THALLAKULAM POLICE STATION,
MADURAI.

CC to M/S. L.RAMU Advocate on payment of necessary charges

CrI.O.P.Nos.17393 & 17394 of 2020

Date :05/11/2020

RVR 06/11/2020