

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.Nos.18089 & 18094 of 2020

1.Sakthivel ... Petitioners in both cases
2.Vetrivel
3.Muthu

Vs.

State By ... Respondent in both cases
The Inspector of Police,
Peerankaranai Police Station,
Chennai.
Crime Nos.1193 & 1194 of 2020.

Common Prayer: Criminal Original Petitions are filed under Section 439 Cr.P.C. to enlarge the petitioners on bail in Crime Nos.1193 & 1194 of 2020, on the file of the Peerankaranai Police Station, Chennai.

In all the Criminal Original Petitions

For Petitioners : Mr.E.Anbarasan

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

COMMON ORDER

(These cases have been heard through video conference)

In Crl.O.P.No.18089 of 2020, the petitioners were arrested and remanded to judicial custody on 02.09.2020 for the offences punishable under **Section 174 of Cr.P.C.** and later altered into **Sections 147, 302 of IPC**, in **Crime No.1193 of 2020** on the file of the respondent police, seek bail.

In Crl.O.P.No.18094 of 2020, the petitioners were arrested and remanded to judicial custody on 02.09.2020 for the offences punishable under **Sections 147, 148, 294(b), 336, 427, 392, 397 and 506(ii) of IPC**, in **Crime No.1194 of 2020**, on the file of the

respondent police, seek bail.

2. In **Crl.O.P.No.18089 of 2020**, the case of the prosecution as per the defacto complainant Veera Kumar is that the Thalayari of Peerkankaranai Village was found lying dead and during the course of investigation, it came to light that the petitioners along with A1 and A2 had committed the murder by assaulting him with hands and stones.

2.1. In **Crl.O.P.No.18094 of 2020**, the case of the prosecution as per the defacto complainant Sumathi who is a flower vendor is that on 02.09.2020 at about 7:00 a.m., the accused came to her shop and demanded a sum of Rs.2000/-. Since, she refused to pay the amount, the accused robbed her hand bag with cash of Rs.1800/- and abused her in filthy language and also threatened her with dire consequences by brandishing weapon.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case since, the respondent suspected the petitioners to be the friends of A1 and A2 who are the main accused in these cases. He would further submit that even as per the complaint in Crime No.1193 of 2020, there is no eye witness to the occurrence and only based on the confession recorded from A1, the petitioners have been implicated in this case. Even as per the statement, the accused are stated to have assaulted the victim only with hands and stones in an inebriated condition since, the victim questioned them when they were consuming alcohol inside his office. He would further submit that the petitioners were arrested in the subsequent case in order to put fetters on them. A very reading of F.I.R. in Crime No.1194 of 2020 would show that it is a case foisted for the purpose of detaining the main accused. He would further submit that insofar as the petitioners are concerned, there is no other case pending against them other than these two cases. He would further submit that the petitioners are prepared to abide by any stringent condition which this Court impose on them and that the petitioners have been suffering incarceration for 79 days from 02.09.2020. Hence, he prays for grant of bail.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that insofar as the Crime No.1194 of 2020 is concerned, the petitioners along with A1 and A2, committed the murder of the Thalayari of Peerkankaranai Village since, he questioned them when they were drinking inside the office. Insofar as the Crime No.1194 of 2020 is concerned, the petitioners have robbed an amount of Rs.1800/- from the defacto complainant who is a flower vendor and also created ruckus in the locality. He would further submit that A1 has been detained under Act 14 and that the investigation is pending. Hence, he would vehemently oppose for the grant of bail.

5. Heard the learned Counsel on either side. Perused the materials placed on record.

6. Taking into consideration of the facts and submissions made by the learned counsels and also considering the period of incarceration suffered by the petitioners from 02.09.2020, 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 **Judicial Magistrate Court, Tambaram**, 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 Chidambaram and report before the Town Police Station, everyday 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.

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

-sd/-

19/11/2020

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,
TAMBARAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PEERKANKARANAI POLICE STATION,
CHENNAI.

5 THE SUPERINTENDENT,
CENTRAL PRISON PUZHAI, CHENNAI.

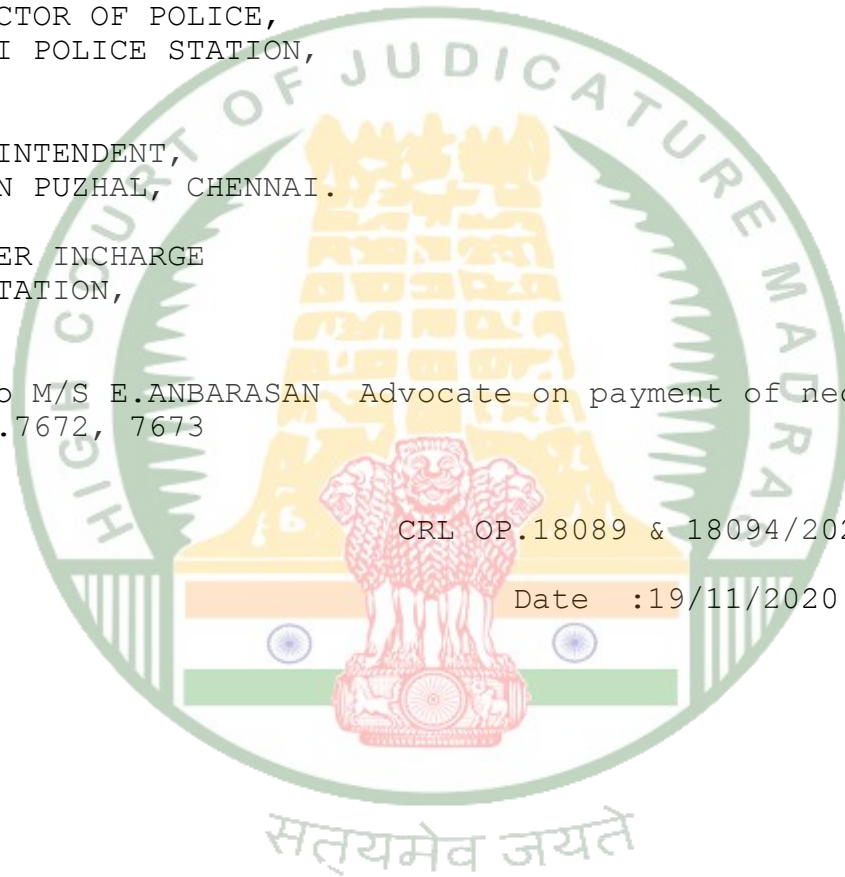
6 THE OFFICER INCHARGE
TOWN POLICE STATION,
CHIDAMBARAM.

+2 CC to M/S E.ANBARASAN Advocate on payment of necessary
charges SR.NO.7672, 7673

CRL OP.18089 & 18094/2020

Date :19/11/2020

TA-20/11/2020



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