

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2020

CORAM :

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

CRL.O.P.Nos.18512, 17887, 18467 & 17885 of 2020

Takkali @ Thowfiq Rahman ..Petitioner in Crl.O.P.No.18512/2020

Irshath @ Kuthubul Irshath ... Petitioner in Crl.O.P.No.17887/2020

Vijay @ Kurangu Viji ... Petitioner in Crl.O.P.No.18467/2020

Automani @ Manikandan ... Petitioner in Crl.O.P.No.17885/2020

Vs.

State Rep. By ... Respondent in all Crl.O.Ps
The Station House Officer,
Villianur Police Station,
Puducherry
(Crime No.490 of 2020)

COMMON PRAYER: Criminal Original Petitions are filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.490 of 2020 on the file of the respondent police.

For Petitioners in : Mr.S.Venkatesh
all Crl.O.Ps

For Respondent in : Mr.Balamurugane
Additional Public Prosecutor,
Puducherry
all Crl.O.Ps

COMMON ORDER

(These cases have been heard through video conference)

The petitioner in Crl.O.P.No.18512 of 2020, who was arrested and remanded to judicial custody on 07.09.2020 for the offence punishable under Sections 148, 341, 302, 109 of IPC r/w Section 149 of IPC, in Crime No.490 of 2020 on the file of the respondent police, seeks bail.

2.The petitioner in CrI.O.P.No.17887 of 2020, who was arrested and remanded to judicial custody on 27.08.2020 for the offence punishable under Sections 148, 341, 302, 109 of IPC r/w Section 149 of IPC, in Crime No.490 of 2020 on the file of the respondent police, seeks bail.

3.The petitioner in CrI.O.P.No.18467 of 2020, who was arrested and remanded to judicial custody on 07.09.2020 for the offence punishable under Sections 148, 341, 302, 109 of IPC r/w Section 149 of IPC, in Crime No.490 of 2020 on the file of the respondent police, seeks bail.

4.The petitioner in CrI.O.P.No.17885 of 2020, who was arrested and remanded to judicial custody on 27.08.2020 for the offence punishable under Sections 148, 341, 302, 109 of IPC r/w Section 149 of IPC, in Crime No.490 of 2020 on the file of the respondent police, seeks bail.

5.The case of the prosecution is that on 16.08.2020, at about 9.45 p.m., when the deceased was walking near the VRL Logistics Company at Villaneur bye pass Road, the accused persons had formed themselves into an unlawful assembly with deadly weapons assaulted the deceased on his head and right hand and thereby committed the murder of him. During the course of investigation, it came to light that the accused one Takkali @ Thowfiq Rahman A6 in this case had encroached upon a temple land and since it was questioned by the deceased Manikandan @ Ramakrishnan, who was the Administrative Officer of the Muthalavaliyamman Temple, at Villaneur, the accused have assaulted him with deadly weapon and committed murder.

6.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case based on the suspicion of the defacto complainant that there was previous enmity between the petitioners and the victim on account of dispute upon a temple land other than the suspicion. There is no other material to implicate the petitioner in the crime. Even, the defacto complainant had stated that the deceased was returning after walking in the night hours, four persons had committed the murder with deadly weapons. He would further submit that the accused are in custody for more than 100 days and that the investigation has been completed and the case is also been taken in PRC No.67 of 2020, on the file of the learned Judicial Magistrate, No.III, Puducherry. Hence, he prays for grant of bail to the petitioners.

7.Mr.Balamurugane, learned Additional Public Prosecutor, Puducherry, appearing for the respondent police would vehemently oppose stating that A6-Takkali @ Thowfiq Rahman had trespassed and encroached upon a temple property and it was questioned by the deceased Manikandan @ Ramakrishnan, who was the Administrative Officer of the Muthalavaliyamman Temple the accused had preplanned and formed into an unlawful assembly with deadly weapons and committed the murder. He would further submit that the the investigation has been completed and the final report has been filed

and the case has been committal in PRC No.67 of 2020, on the file of the learned Judicial Magistrate No.III, Puducherry. He would further submit that as far as the petitioner in Crl.OP.No.18467 of 2020 - Vijay @ Kurangu Viji, there are four previous cases registered against him.

8. At this juncture, the learned counsel appearing for the petitioners would submit that as far Vijay @ Kurangu Viji is concerned, there is no case registered against him for the offence punishable under Section 302 and that the cases registered against him are petty offence and the petitioners were arrested on 27.08.2020 and they are in custody for more than 100 days and they are prepared to abide by any stringent condition.

9.Heard the learned counsel appearing for the petitioners as well as the learned Additional Public Prosecutor (Puducherry) appearing for the respondent and perused the materials available on record.

10.Taking into consideration of the facts and circumstance of the case and the submissions made by the learned counsels and also taking into consideration the period of incarceration suffered 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 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.III, Puducherry**, 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 No.III, Puducherry, everyday at 10.30 a.m., and also appear before the respondent police, everyday at 5.30 p.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 55601];

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

7. With the above directions, these Criminal Original Petitions are ordered.

-sd/-
21/12/2020

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.III,
PUDUCHERRY.

2 THE CHIEF JUDICIAL MAGISTRATE
PUDUCHERRY. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
PUDUCHERRY.

4 THE STATION HOUSE OFFICER,
VILLIANUR POLICE STATION,
PUDUCHERRY.

5 THE SUPERINTENDENT,
CENTRAL JAIL, PUDUCHERRY.

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

सत्यमेव जयते

CRL.O.P.Nos.18512, 17887, 18467
& 17885 of 2020

Date :21/12/2020

TA-22/12/2020

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