

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.12.2020

CORAM :

THE HON'BLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P.Nos.18432, 18420 & 19426 of 2020

Sambasiva Rao ... Petitioner in Crl.O.P.18432/2020

1.Jagadesh
2.Lokesh ... Petitioners in Crl.O.P.18420/2020

L.Karthick ... Petitioner in Crl.O.P.19426/2020

Vs.

State rep. by the Inspector of Police,
Vellore CBCID Police Station,
Vellore, Vellore District
(Crime No.5 of 2019) ... Respondent in all Crl.O.Ps.

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.5 of 2019 pending investigation on the file of the respondent police.

For Petitioner : Mr.G.Vinodh Kumar in Crl.O.P.18432
Mr.M.R.Thangavel in Crl.O.P.18420
Mr.T.Shanmugam in Crl.O.P.19426

For Respondent : Mr.K.Madhan
Government Advocate (Crl. Side)

C O M M O N O R D E R

(These cases have been heard through video conference)

The petitioners, who was arrested and remanded to judicial custody on 13.10.2020 for the offences punishable under Section 147, 148, 302, 120 B r/w 34 IPC, in Crime No.5 of 2019 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that due to previous enmity, the petitioners have joined together and attacked the deceased with knife, due to which, the deceased died on the spot. Hence the complaint.

3.The learned counsels appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. They would further submit that the petitioners' names did not find place in F.I.R. and that they have been implicated in this case based on the confession given by the 1st accused in this case. They would further submit that the petitioners were only present at the scene of occurrence and other than that there is no specific overt act against these petitioners. Accordingly prays for grant of bail to the petitioners.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner in Crl.O.P.No.18420/ 2020, A2 viz. Jagadesh is the main accused in this case, who had personal motive and intention to do away with the deceased due to previous enmity. He would further submit that A2 / Jagadesh conspired with other accused and committed the murder of the deceased by strangulating his neck and assaulted the deceased brutally. The other petitioners in this case were present at the scene of occurrence and they have also actively participated in this crime. He would further submit that CDR report is awaited and investigation is pending.

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

6.Taking into consideration of the fact that a specific overt act attributed by the prosecution against A2 / Jagadesh (petitioner in Crl.O.P.No.18420 of 2020) in this case that he has strangulated the neck of the deceased and brutally assaulted and committed the murder and considering the grave nature of the offence and the circumstances of the offence committed, I am declined to grant bail to A2 / Jagadesh (petitioner in Crl.O.P.No.18420 of 2020).

7.Overall consideration of the facts, the nature of accusation, the nature of offences, the materials in support of the accusation and the circumstances of the case and the period of detention of the petitioners in the judicial custody, this Court is inclined to grant bail to the other petitioners except A2 viz. Jagadesh (petitioner in Crl.O.P.No.18420 of 2020), 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.25,000/- (Rupees Twenty Five Thousand only) each, with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate-III, Vellore, 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 respondent police 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.

8. With the above directions, this Criminal Original Petition as far as A2 / Jagadesh in CrI.O.P.No.18420 of 2020 is concerned stands dismissed. This Criminal Original Petition as far as the other petitioners are concerned stands ordered.

सत्यमेव जयते
-sd/-
30/12/2020

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,
VELLORE.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, THORAPADI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
VELLORE CBCID POLICE STATION,
VELLORE, VELLORE DISTRICT.

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

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

+1CC to M/S.T.Shanmugam Advocate on payment of necessary
charges SR NO.8754

CRL.OP.NOS.18432, 18420 & 19426 OF 2020

Date :30/12/2020

MK:30/12/2020

सत्यमेव जयते

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