

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2020

CORAM

THE HONOURABLE MR.JUSTICE. M.NIRMAL KUMAR

Cr1.O.P.No.18562 of 2020

1. Balakrishnan
2. Govindhan
3. Iyyandurai @ Subramani

... Petitioners

Vs.

State Rep by
The Inspector of Police,
Sankari Police Station,
Salem District.
(Crime No.552 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C, to enlarge the petitioners on bail pending investigation in Crime No.552 of 2020 on the file of the respondent police.

For Petitioners : Mr.R.Ezhilarasan

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Cr1.Side)

ORDER

This case has been heard through video conference

The petitioners who were arrested and remanded to judicial custody on 01.10.2020 for the offence punishable under Sections 294(b), 506(i), 379 of IPC Sections 21(1) of Mines and Minerals (Development and Regulation) Act 1957; Section 3(1) of Prevention of Damage to Public Property Act 1984; 9(B)(1)(b) of Explosive Act 1884 Section 3 of Explosive Substances Act 1908; Section 304(2) of IPC, in Crime No.552 of 2020 on the file of the respondent police, seek bail.

2. The case of the prosecution is that the deceased as well as A2 had employed , the petitioners to explode the rock in the Government Poramboke land for which the explosives purchased from A6, while carrying out the explosion accident occurred, the husband of the 2nd accused died on the spot. A2 sustained injuries and the complaint was lodged to the respondent police. During investigation, it was found that A3 sold the explosives to one Subramani who in turn sold the same to A1 and the respondent police arrested the

3. The learned counsel appearing for the petitioner would submit that they were employed by the deceased to clear the rock. He would further submit that the petitioners are falsely implicated in this case, the deceased employed the petitioners and made arrangement in purchase of explosives in removal of rock. Further, he would submit that the petitioners are in judicial custody from 01.10.2020 and seek bail for the petitioners. Further, A6 in this case was granted bail by this Court in Crl.O.P.No.17364 of 2020 dated 10.11.2020.

4. The learned Government Advocate (Crl.Side) would submit that the deceased as well as A2 had employed , the petitioners to remove the rocks from the Government Poramboke land which was in possession and enjoyment of the deceased. The explosives were purchased from A6. While exploding the rocks using explosives, accident occurred the husband of the 2nd accused died on the spot. Thereafter, a complaint was lodged to the respondent police and the respondent police arrested the petitioners. He would further submit that the co-accused in this case granted bail by this Court in Crl.O.P.No.17364 of 2020. However, he vehemently opposed for grant of bail to the petitioners.

5. Taking into consideration the nature of allegations against the petitioners in the FIR and also taking note of the fact it was the deceased, who had made arrangements for explosives and had engaged the petitioners to clear the rocks while executing the work, accident occurred and also considering the that the petitioners are in judicial custody from 01.10.2020, this Court is inclined to grant bail to the petitioners, subject to the following conditions :

(a) the petitioners are ordered to be released on bail and they shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, with two sureties before learned Judicial Magistrate No.1, Sankari,.

(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 report before the respondent police as and when required for interrogation.

(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.

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

-sd/-
24/11/2020

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, SANKARI.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
SANKARI POLICE STATION,
SALEM DISTRICT.

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

CRL OP.18562/2020

Date :24/11/2020