

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.18596 of 2020

1.Arikrishnan
2.Rajasekar

... Petitioners

Vs.

State Rep.by
The Inspector of Police
Rishivandiam Police Station
Kallakurichi District
(Crime No.1324 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioners on bail in Crime No.1324 of 2020, pending on the file of the respondent police.

For Petitioners: Mr.N.Ranjith Kumar

For Respondent : Mr.Shunmugarajeswaran

Government Advocate (Cr1. Side)

O R D E R

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 05.10.2020, for the offences punishable under Section **294(b), 323, 341, 506(ii) IPC and subsequently altered into 294(b), 323, 341, 506(ii). 302 IPC**, in Crime No.1324 of 2020 on the file of the respondent police, seek bail.

2. The case of the prosecution is that the deceased is the junior father of the petitioners and they both are residing at the adjacent land. When the deceased put up construction in his land, the petitioners had blocked the pathway and when the same was questioned by the deceased, the petitioners have assaulted the deceased with wooden log on the back of his head, due to which, the deceased fainted and fell down. The further allegation is that when the deceased was taken to the Government Hospital, Thiruporur, he was referred to Government Hospital, Kalakurichi and from there he was referred to Mundiabakkam Government Hospital, where he succumbed to injuries. Originally the case was

registered for the offences under Sections **294(b), 323, 341, 506 (ii) IPC and after the death of the victim, it was altered into 294(b), 323, 341, 506(ii). 302 IPC,**

3. It is the contention of the learned counsel appearing for the petitioner that the petitioners are innocent and they have been falsely implicated in this case, due to pathway dispute. He would submit that the deceased is none other than the junior father of the petitioners and on the day of the occurrence, there was a wordy quarrel and scuffle between both the families and during the scuffle the deceased fell down and sustained injuries on his head, which led to his death and not by the assault of the petitioners. He would further submit that the petitioners were arrested on 05.10.2020 and they are in judicial custody for the past 45 days.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that due to pathway dispute, the petitioners have assaulted the victim with wooden log on his head, due to which, he fainted and fell down. He would further submit that the deceased was immediately taken to the Government Hospital, Thiruporur, thereafter, he was referred to Government Hospital, Kalakurichi and from there he was referred to Mundiabakkam Government Hospital, where he succumbed to injuries and the petitioners are the cause for the injury. He would further submit that the investigation has been completed and awaiting opinion from the Deputy Legal Advisor.

5. Heard both sides and perused the material placed on record.

6. Taking into consideration of the facts and submissions made by the learned counsels and also considering the fact that the incident had taken place due to pathway dispute and there are no bad antecedents against the petitioners and also considering 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 separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, with two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate, Tirukoilur, 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., for a period of two weeks and thereafter appear before the Trial Court 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

24/11/2020

सत्यमेव जयते

This order, on being produced, be punctually observed and carried into execution by all concerned

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TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
TIRUKOILUR

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM DISTRICT [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

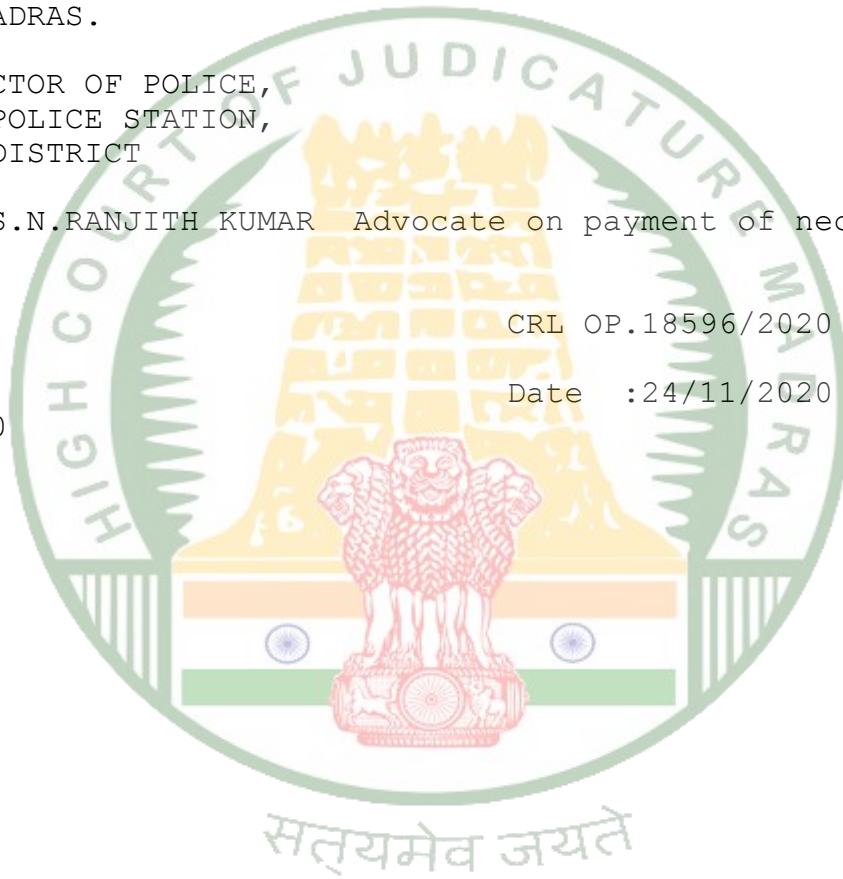
5 THE INSPECTOR OF POLICE,
RISHIVANDIAM POLICE STATION,
KALLAKURICHI DISTRICT

CC to M/S.N.RANJITH KUMAR Advocate on payment of necessary
charges

CRL OP.18596/2020

Date :24/11/2020

GKS:27/11/2020



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