

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.12.2020

CORAM :

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

CRL.O.P.Nos.18548 and 18551 of 2020

JAYAKUMAR ... Petitioner in Crl.O.P.No.18548 of 2020

VANATHI ... Petitioner in Crl.O.P.No.18551 of 2020

Vs.

State by
The Sub Inspector of Police,
Alangayam Police Station
Vellore District
(Crime No.527 of 2020) ... Respondent in both Crl.O.Ps.

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.527 of 2020 pending on the file of the respondent Police.

For Petitioner
in Crl.O.P.No.18548 of 2020 : Mr.E.Kannadasan

For Petitioner
in Crl.O.P.No.18551 of 2020 : Mr.M.Machavatharan

For Respondent
in both Crl.O.Ps. : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The cases have been heard through video conference)

The petitioners who were arrested and remanded to judicial custody on 07.11.2020 for the offence punishable under Section 448, 323, 307 IPC in Crime .No.527 of 2020, seeks bail.

2. The case of the prosecution as per the defacto complainant Vinayagamoorthy is that he was married to one Vanathi / the petitioner in Crl.O.P.No.18551 of 2020 and that they have got two children. While so, on 05.11.2020 at about 11.25 p.m., when he was at his home, his wife along with her paramour Jayakumar / the petitioner in Crl.O.P.No.18548 of 2020. attempted to murder him by smothering with pillow and when the defacto complainant raised alarm, the accused ran away leaving a mobile phone at the house of the defacto

3.The learned counsel appearing for the petitioner in CrI.O.P.No.18548 of 2020 would submit that the petitioner/A1 is an innocent and he has been falsely implicated in this case due to matrimonial dispute between the defacto complainant and his wife/A2. He would submit that the defacto complainant had suspected that the petitioner was having illicit affair with his wife and thereby lodged a false complaint against the petitioner. He would further submit that the petitioner has been suffering incarceration from 07.11.2020. Hence, he prays for grant of bail.

4.The learned counsel appearing for the petitioner in CrI.O.P.No.18551 of 2020 would submit that the petitioner is an innocent and she has been falsely implicated in this case and the defacto complainant who is her husband, had suspected that the petitioner was having illicit affair with one Jayakumar/A1 and thereby, lodged a false complaint against the petitioner. He would further submit that due to the intervention of the relatives and well-wishers of both the families, the matter was compromised pursuant to which, the defacto complainant has filed a notarized affidavit of undertaking, stating that he has compromised with his wife/A2 and he has intended to take her along with him to his place of employment at Meerut and that the petitioner has been suffering incarceration from 07.11.2020. Hence, he prays for grant of bail.

5.The learned Government Advocate (CrI. Side) appearing for the respondent police would vehemently oppose stating that the first accused / the petitioner in CrI.O.P.No.18548 of 2020 is the paramour of the second accused / the petitioner in CrI.O.P.No.18551 of 2020 and the defacto complainant is the husband the second accused. He would submit that the second accused had developed illicit intimacy with the first accused due to which, they attempted to do away the defacto complainant by smothering him with pillow. He would submit that the investigation is pending.

6. Heard both the sides and perused the materials placed on record.

7. Taking into consideration, the facts and circumstances of the case and the submissions of the learned Counsel for the petitioners and taking into account the affidavit of undertaking filed by the defato complainant and also the period of incarceration suffered by the petitioners from 07.11.2020, 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 learned Judicial Magistrate-III, Thiruppathur, 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 petitioner in CrI.O.P.No.18548 of 2020, on his release from prison, shall report before the respondent police everyday at 05.30 p.m. until further orders.

the petitioner in CrI.O.P.No.18551 of 2020, on her release from prison, shall report before the respondent police everyday at 10.30 a.m. for a period of two weeks and thereafter, 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.

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

-sd/-

07/12/2020

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, THIRUPPATHUR

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR

<https://hcservices.ecourts.gov.in/hcservices/>
HIGH COURT, MADRAS.

4 THE SUB-INSPECTOR OF POLICE,
ALANGAYAM POLICE STATION
VELLORE DISTRICT.

5 THE OFFICER INCHARGE,
SUB JAIL, THIRUPPATHUR

6 THE SUPERINTENDENT,
SPECIAL PRISON FOR WOMEN,
VELLORE.

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

CRL OP.Nos.18548 and 18551 of 2020

Date :07/12/2020

RVR 08/12/2020