

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.18775 and 19236 of 2020

Govindharaj ... Petitioner in Crl.O.P.No.18775 of 2020

Kamal ... Petitioner in Crl.O.P.No.19236 of 2020

Vs.

State by  
The Inspector of Police,  
Gurubarapalli Police Station  
Krishnagiri District  
(Crime No.815 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.815 of 2020 pending on the file of the respondent Police.

For Petitioner  
in Crl.OP.No.18775 of 2020 : Mr.M.Jayachandran

For Petitioner  
in Crl.OP.No.19236 of 2020 : Mr.G.Punniakoti

For Respondent : 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 10.10.2020 for the offence punishable under Section 174(3) of Cr.P.C. later altered into Section 306 IPC in Crime .No.815 of 2020, seeks bail.

2. The case of the prosecution as per the defacto complainant Anandan is that his son Suresh Kumar was working as a Goldsmith and that he had subscribed to a chit run by A1 and thereafter, he was unable to repay the amount. While so, on 05.10.2020, the defacto complainant's son Suresh Kumar had come to the defacto complainant's house and later he was found dead after consuming poison. Originally the case was registered for offence under Section 174 Cr.P.C. Later, during the course of investigation, it came to light that the victim had taken chit from A1 and thereafter, he was unable to repay the money. Thereby, A1 along with the petitioners/A3 and A2, took the victim to a godown and assaulted him and obtained his signatures in blank bond papers. Further, they have also videographed the incident

and sent it to the wife of the deceased. Unable to bear the torture and humiliation, the victim after recording his dying declaration in a video, died by consuming poison.

3.The learned counsel appearing for the petitioner in Crl.O.P.No.18775 of 2020 would submit that the petitioner/A3 is an innocent and he has been falsely implicated in this case since, he is the friend of A2 who is the friend of A1. He would submit that this is a second application for bail and the earlier application for bail was dismissed by this Court vide Crl.O.P.No.17339 of 2020 by order dated 05.11.2020 on the ground that the investigation was at the initial stage. He would further submit that even as per the prosecution, the petitioner is stated to have taken the alleged video. Other than that, the petitioner has not done anything. He would further submit that the petitioner has been suffering incarceration for more than 55 days from 10.10.2020. Hence, he prays for grant of bail.

4.The learned counsel appearing for the petitioner in Crl.O.P.No.19236 of 2020 would submit that the petitioner/A2 is an innocent and he has been falsely implicated in this case since, he happens to be the friend of A1. He would submit that this is a second application for bail and the earlier application for bail was dismissed by this Court vide Crl.O.P.No.17411 of 2020 by order dated 06.11.2020 on the ground that the investigation was at the initial stage. He would submit that the petitioner has been suffering incarceration for more than 55 days from 10.10.2020. Hence, he prays for grant of bail.

5.The learned Government Advocate (Crl. Side) appearing for the respondent police would vehemently oppose stating that the victim had subscribed to a chit run by A1 and thereafter, he was unable to repay the amount. Thereby, A1 along with the petitioners, took the victim to a godown owned by A1 and assaulted him and obtained his signatures in blank bond papers. He would further submit that they have also videographed the entire incident and sent it to the wife of the deceased. Due to the harassment and humiliation, the victim committed suicide after recording his dying declaration in a video. He would further submit that the investigation is pending.

6. Taking into consideration, the facts and circumstances of the case and the period of incarceration suffered by the petitioners from 10.10.2020, 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-II, Krishnagiri, 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 stay at Villupuram and report before the Inspector of Police, Town Police Station, everyday at 10.30 a.m. until further orders. The petitioners shall not enter into the jurisdictional limits of the respondent police 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 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.II, KRISHNAGIRI

2 THE CHIEF JUDICIAL MAGISTRATE  
KRIHNAGIRI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,  
GURUBARAPALLI POLICE STATION,  
KRISHNAGIRI DISTRICT.

<https://hcservices.ecourts.gov.in/hcservices/>

5 THE OFFICER INCHARGE,  
SUB JAIL, HOSUR

6 THE INSPECTOR OF POLICE,  
TOWN POLICE STATION, VILLUPURAM.

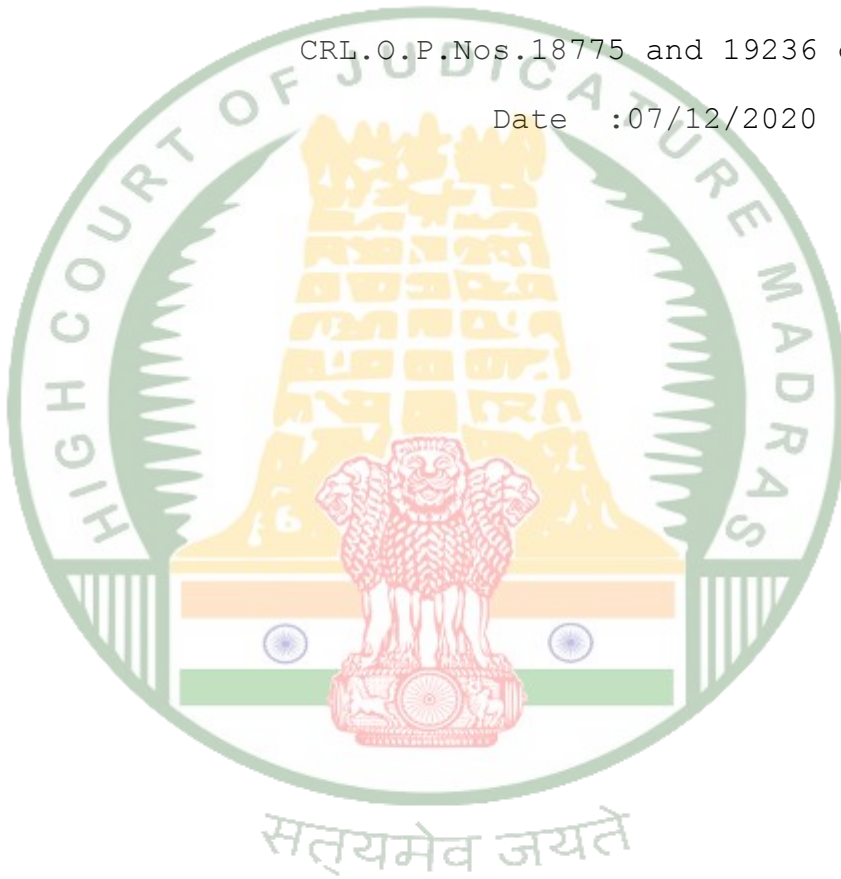
CC to M/S.M.JAYACHANDRAN Advocate on payment of necessary charges

CC to M/S.G.Punniakoti Advocate on payment of necessary charges  
SR.NO.7970

CRL.O.P.Nos.18775 and 19236 of 2020

Date :07/12/2020

RVR 08/12/2020



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