

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

CrI.O.P.No.18833 of 2020

1.Vellaiyan
2.Annamalai

.. Petitioners

Vs.

State Rep. by Sub Inspector of Police,
Jamunamarathur Police Station,
Thiruvannamalai District.
(Crime No.525 of 2020) .. Respondent

Prayer: Criminal Original Petition filed under Section 439 of Cr.P.C. to enlarge the petitioners on bail in connection with Crime No.525 of 2020, pending investigation on the file of the respondent.

For Petitioner : Mr.E.Kannadasan

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

ORDER

(This case has been heard through video conference)

The petitioners who was arrested and remanded to judicial custody on 27.09.2020 for the offences punishable under Sections 324, 302 IPC, in Crime No. 525 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioners and the deceased are co-parcener and they have adjacent agricultural land. The further allegation is that there was a dispute with regard to sharing of water for irrigation from the common well and there was also a fruit bearing tree in the boundary line. One Magi, who is the brother's son of the deceased Rajendran had plucked some fruits from the tree and when it was questioned by the accused, wordy quarrel arose between the two groups and they have started to pelt stones on each other and during such time one of the stones hit the chest of the deceased, due to which, he fainted and fell down. The deceased was immediately taken to the Namiyampattu Government Hospital, where he was declared brought dead. Thereafter a case came to be registered against the

3.The contention of the petitioners is that the 1st petitioner is the father and the 2nd petitioner is the son. The deceased and the petitioners are co-parcener and they have dispute with regard to sharing of water from the common well. On the fateful day, there was some wordy quarrel between both the groups and there was scuffle at that time both the family members pelted stones at each other and that the petitioners are not the cause for the death of the deceased. Since there was a motive against these petitioners, the petitioners are falsely implicated in this offence. The learned counsel would further submit that the petitioners were arrested on 27.09.2020 and they have been in prison from there on.

4.The learned Government Advocate (Crl. Side) would vehemently oppose stating that the occurrence took place on 27.09.2020. The petitioners and the deceased are co-parcener, they are having adjacent agricultural land and they have dispute with regard to sharing of water from the common well, thereby, the petitioners had attacked the deceased with stones on his chest, due to which, the deceased fainted and fell down, thereafter, the deceased was taken to public health centre, where he was declared brought dead. He would further submit that no external injuries were found on the deceased. He would further submit that the major part of the investigation has been completed and that they are awaiting for chemical analysis report and medical report.

5.Heard the learned counsel on either side. Perused the materials placed on record including F.I.R.

6.Taking into consideration the facts and submissions made by the learned counsel and also considering the period of incarceration suffered by the petitioners and that there was no external injury found on the deceased, 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 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 District Munsif cum Judicial Magistrate, Vaniyambodi 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 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 during 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/-

02/12/2020

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

WEB COPY

TRUE COPY

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

TO

1 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
VANIYAMBADI.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

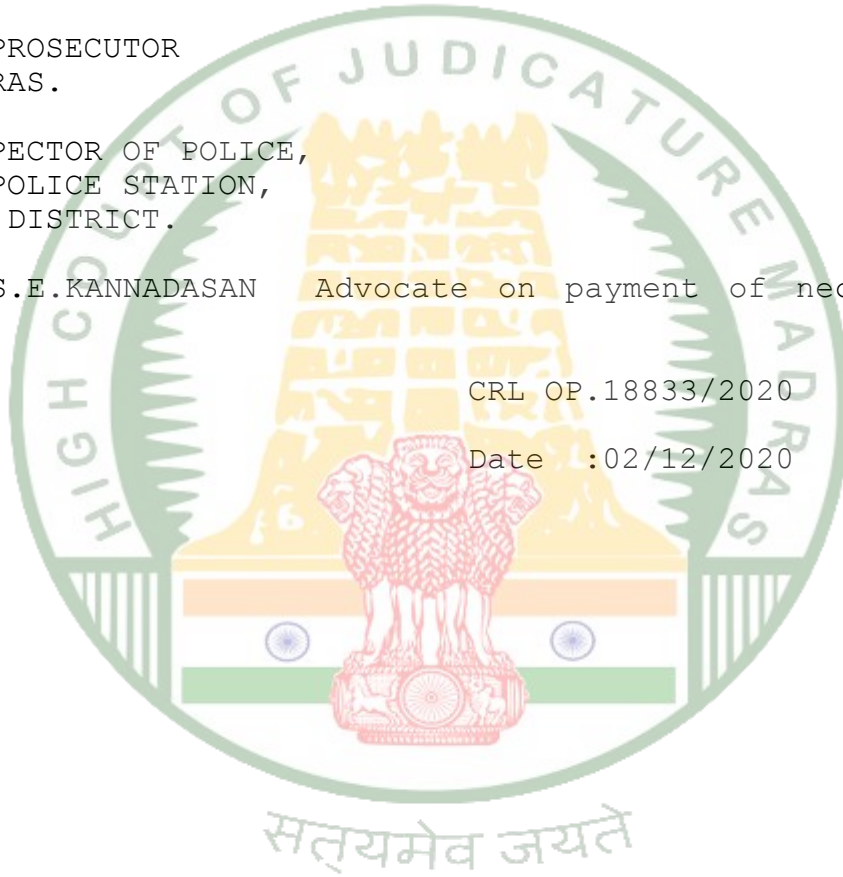
5 THE SUB INSPECTOR OF POLICE,
JAMUNAMARATHUR POLICE STATION,
THIRUVANNAMALAI DISTRICT.

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

CRL OP.18833/2020

Date :02/12/2020

MK:03/12/2020



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