

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.12.2020

CORAM :

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

CRL.O.P.No.19362 of 2020

- 1.Akash Kumar @ Kattappa
- 2.Kathavarayan
- 3.Gunasekara Pandian @ Gullu
- 4.Senthilkumar @ Senthil

... Petitioners/ Accused

vs.

State rep by:

Inspector of Police,
T-5, Thiruverkadu Police Station,
Ambattur, Chennai District.

(Crime No.909 of 2020)

... Respondent /Complainant

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioners 1 to 4 on bail in Crime No.909 of 2020 pending investigation on the file of the respondent police.

For Petitioners : Mr.S.Suresh

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

ORDER

(The cases have been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 13.09.2020 for the offence punishable under Section 302 of IPC, in Crime No.909 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that due to previous enmity, the petitioners along with A1 committed the murder of the deceased by indiscriminately cutting him with knife. Hence, the complaint.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that this is the second application for bail and the earlier application in Crl.O.P.No.16559 of 2020 was dismissed by this Court by order dated 28.10.2020 on the ground that the investigation was at the initial stage and the petitioners were arrested recently. He would submit that the investigation has been completed and the final report was filed and the case was initially taken on file in P.R.C.No.18 of 2020

On the file of the Judicial Magistrate-II, Poonamallee and now the

case has been committed to the Court of Sessions on the file of the Principal District and Sessions Court, Tiruvallur on 07.12.2020 and that the Sessions Case number has not been assigned so far. He would further submit that as far as these petitioners are concerned there is no previous case against them and the petitioners were not even present in the scene of occurrence and that there is no eyewitness to the occurrence. He would further submit that the petitioners have been suffering incarceration from 13.09.2020. Hence, he prays for grant of bail to the petitioners.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioners are the associates of A1 and due to previous enmity, the petitioners along with A1, had waylaid the deceased and cut him indiscriminately due to which, the deceased suffered 18 cut injuries and died. He would further submit that the investigation has been completed and the case has been committed to the Court of Sessions. However, the Sessions case number has not been assigned so far. He would further submit that A1 in this case has been detained under Act 14 of 1982.

5. Heard the learned Counsels on both sides and perused the materials placed on record.

6. Taking into consideration, the facts and circumstances of the case and the submissions of the learned Counsels and also considering the period of incarceration suffered by the petitioners from 13.09.2020, 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, Poonamallee. 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 appear before the learned Principal District and Sessions Judge, Tiruvallur, on all working days 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 absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-

08/12/2020

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 POONAMALLEE

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR (FOR INFORMATION)

3 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, THIRUVALLUR

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 INSPECTOR OF POLICE,
T-5, THIRUVERKADU POLICE STATION,
AMBATTUR, CHENNAI DIST.

6 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI

+1 CC to M/S.S.SURESH Advocate on payment of necessary charges
Sr.7985

CRL OP.19362/2020

Date :08/12/2020

RVR 09/12/2020