

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.12.2020

CORAM :

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

CRL.O.P.Nos.19113, 19211 & 19832 of 2020

K.ARUMUGAM	...Petitioner in Crl.O.P.No.19113/2020
K.Davidtamilselvan	...Petitioner in Crl.O.P.No.19211/2020
Suman	...Petitioner in Crl.O.P.No.19832/2020

Vs.

State rep. By: The Inspector of Police, Manimangalam Police Station, Kancheepuram District. (Crime No.1673 of 2020)	... Respondent in all Crl.O.Ps
---	--------------------------------

COMMON PRAYER: Criminal Original Petitions filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in connection with Crime No.1673 of 2020 on the file of the respondent.

For Petitioner in : Mr.L.Ramu
Crl.O.P.No.19113/2020

For Petitioner in : Mr.A.M.Natraj
Crl.O.P.No.19211/2020

For Petitioner in : Mr.D.Padmanabhan
Crl.O.P.No.19382/2020

For Respondent in : Mr.T.Shunmugarajeswaran
Govt. Advocate (Crl. Side)
all Crl.O.Ps

COMMON ORDER

(These cases have been heard through video conference)

The petitioner in Crl.O.P.No.19113 of 2020, who was arrested and remanded to judicial custody on 06.10.2020 for the offence punishable under Section 341, 147, 148 and 302 r/w Section 34 of IPC, in Crime No.1673 of 2020 on the file of the respondent police, seeks bail.

2.The petitioner in Crl.O.P.No.19211 of 2020, who was arrested and remanded to judicial custody on 06.10.2020 for the offence punishable under Section 341, 302 IPC @ 147, 148, 341, 302 r/w 34 of IPC, in Crime No.1673 of 2020 on the file of the respondent police, seeks bail.

3.The petitioner in Crl.O.P.No.19832 of 2020, who was arrested and remanded to judicial custody on 05.10.2020 for the offence punishable under Section 341, 302 IPC, in Crime No.1673 of 2020 on the file of the respondent police, seek bail.

4.The case of the prosecution as per the defacto complainant viz. Aruna is that her husband Sathish Kumar was engaged in the business of real estate and they belong to Adi Dravidar community. On 04.10.2020 her husband brought cooking items in the morning and saying that he would come back for lunch, left the house. While so, at about 3.30 p.m. she received a call from the driver of her husband stating that while they were going near Orathur new bridge, three persons had waylaid their car and when he had got down, they cut her husband indiscriminately with Aruval, due to which, he died on the spot. On receipt of the said information, the defacto complainant along with her brother Sakthivel had gone to the spot and found her husband was lying dead with cut injuries.

5.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they has been falsely implicated in this case. He would further submit that the names of the petitioners do not find place in the F.I.R. and they are in custody from 05.10.2020, 06.10.2020 respectively and the major part of the investigation has been completed.

6.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the deceased and A4 were jointly doing real estate business. A1 is a friend of A4 and the deceased borrowed a sum of Rs.1,50,000/- from A1 and had not repaid the same and also the deceased is stated to have not shared the commission proportionately to A4, due to which, A1 & A4 jointly conspired along with other accused and on the date of occurrence near Orathur new bridge, they chased the car of the deceased, waylaid him and A1 to A3 assaulted him with Aruval indiscriminately, due to which, the deceased sustained 22 cut injuries and his head was smashed and caused his death on the spot. He would further submit that the petitioners accompanied them and that they very well aware of the plan of A1 to A3 who had committed the murder.

7.At this juncture, the learned counsel appearing for the petitioner in Crl.O.P.No.19211 of 2020 (A4) would submit that the petitioner was not present at the scene of occurrence. The learned counsel appearing for the petitioner in Crl.O.P.No.19113 of 2020 would submit that the petitioner is the friend of the deceased as well as the other accused and he is the person, who informed the family members of the defacto complainant about the occurrence and till such time of the occurrence, the petitioner was not aware of their conspiracy. The learned counsel for the petitioner in

Crl.O.P.No.19832 would submit that he is only a cab driver who had taken the accused to the spot and he was not aware of the motive of the other accused, since, he accompanied them, he has also been implicated in this case.

8.Per contra, the learned Government Advocate would submit that though the petitioners haf not assaulted the deceased, they were all present at the scene of occurrence and they had the knowledge and the intention of the other accused to do away with the deceased. He would further submit that there are no previous cases against these petitioners.

9.Heard the learned Counsel on either side. Perused F.I.R. and other materials placed on record.

10.Taking into consideration of the facts and submissions made by the learned counsels and that there are only serious allegations against A1 to A3 who have stated to have indiscriminately assaulted the deceased and that the petitioners have only accompanied them and they have no previous cases pending against them, 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 like sum to the satisfaction of the learned **Judicial Magistrate-II, Tambaram (Petitioners in Crl.O.P.Nos.19211 & 19832 of 2020)**, and to the satisfaction of the **Judicial Magistrate Court No.1, Tambaram (petitioner in Crl.O.P.No.19113 of 2020)** 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 Nagarcoil and report before the Kottar Police Station everyday at 10.30 a.m. until further orders. The petitioners shall not enter into the jurisdictional limits of the respondent police.

(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
<https://hcservices.courts.gov.in/hcservices/> 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.

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

-sd/-

17/12/2020

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 PRINCIPAL SESSIONS JUDGE OF KANCHEEPURAM
DISTRICT AT CHENGALPATTU.

2 THE JUDICIAL MAGISTRATE,
NO.I, TAMBARAM.

3 THE JUDICIAL MAGISTRATE,
NO.II, TAMBARAM.

4 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

5 THE INSPECTOR OF POLICE,
MANIMANGALAM POLICE STATION,
CHENGALPAT DISTRICT.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

7 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI.

8 THE OFFICER INCHARGE,
KOTTAR POLICE STATION,

NAGARCOIL.

9 THE JAILER
SUB JAIL, SAIDAPET.

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

+1 CC to M/S.A.M.NATRAJ, Advocate on payment of necessary
charges SR.NO.8319

+1 CC to M/S.D.PADMANABHAN, Advocate on payment of necessary
charges SR.NO.8314

CRL OP.19113, 19211 & 19832/2020

Date :17/12/2020

TA-18/12/2020