

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.12.2020

CORAM :

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

CRL.O.P.Nos.19203, 19226 and 19417 of 2020

1.RAJKUMAR ... Petitioners in Crl.O.P.No.19203 of 2020

2.PRASANTH

3.PALANIYAPPAN

4.MURUGESAN

SAHADEVAN ... Petitioner in Crl.O.P.No.19226 of 2020

KARTHICK ... Petitioner in Crl.O.P.No.19417 of 2020

Vs.

State rep. by its. ... Respondent in all Crl.O.Ps.

The Inspector of Police

VAZHAVANDHINADU Police Station

Sendamangalam, Namakkal District.

(Crime No.226 of 2020)

Common Prayer: Criminal Original Petition is filed under Section 439 of Cr.P.C, to enlarge the petitioners on bail in Crime No.226 of 2020 on the file of the respondent police.

For Petitioners : Mr.W.Camyles Gandhi
in Crl.O.P.Nos.19203, 19226 of 2020

For Petitioner : Mr.R.Ramachandran
in Crl.O.P.No.19417 of 2020

For Respondents : Mr.T.Shunmugarajeswaran
Government Advocate (Crl.Side)
in all Crl.O.Ps.

ORDER

(The cases have been heard through video conference)

The petitioners who were arrested and remanded to judicial custody on 08.10.2020 and 09.10.2020 for the offence punishable under **Section 302 IPC later altered into Sections 120(B), 147, 148, 302 IPC** in Crime No.226 of 2020, seek bail.

2. The case of the prosecution as per the informant Raja, who is a Forest Guard, Melpakkam Range, Namakkal District is that on 06.10.2020, while he was on usual rounds within his range, he had seen the body of one Samydurai, murdered by smashing head with stones. Based on the information, the case was registered for offence under Section 302 IPC. Later, during the course of investigation, it came to light that A1 and A2 who are the sons-in-law of the deceased, who were antagonized with the deceased since the deceased had not given them share in the property, had taken him to a secluded place, gave him drinks and when he was in an inebriated state, committed the murder along with other accused who are the friends of A1 and A2.

3. The learned counsel appearing for the petitioners in CrI.O.P.Nos.19203 and 19226 of 2020 would submit that the petitioners are innocent and they have been falsely implicated in this case. He would submit that other than the alleged confession statement recorded from the arrested accused, there is no other material to connect the petitioners in this offence. He would further submit that the first and second petitioners/A1 and A2 in CrI.O.P.No.19203 of 2020 are the sons-in-law of the deceased and the other accused are their friends. He would further submit that there is no reason for the first and second petitioners/A1 and A2 to murder their father-in-law and the petitioners were falsely arrested by the respondent on 08.10.2020 and 09.10.2020 and that they have been suffering incarceration for more than two months and there is no previous case against the petitioners. Hence, he prays for grant of bail.

4. The learned counsel appearing for the petitioner in CrI.O.P.No.19417 of 2020 would submit that the petitioner is an innocent and he has been falsely implicated in this case based on the confession recorded from the arrested accused and since, the respondent believed that the petitioner is the associate of A1 and A2 and he helped them in committing the offence. He would submit that there is no eyewitness to the occurrence and it is a case of circumstantial evidence and that the major part of investigation is over. He would further submit that the petitioner has been suffering incarceration for more than two months from 09.10.2020. 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 and second petitioners/A1 and A2 in Crl.O.P.No.19203 of 2020 are the sons-in-law of the deceased. The deceased had sold a property and since he did not give them any share of the property, they along with other accused, pre-planned and took the deceased to a secluded place in a forest area, gave him liquor and when the deceased was in an inebriated condition, murdered him by smashing his head with stones. He would further submit that the petitioners have confessed the commission of crime and there are materials to show that the petitioners were last seen with the company of the deceased and that the investigation is pending.

6. Taking into consideration, the facts and circumstances of the case and the submissions of the learned Counsels and it is a case of circumstantial evidence and also considering the period of incarceration suffered by the petitioners, this Court is inclined to grant bail to the petitioners subject to the following conditions;

(a) Accordingly, the **petitioners in Crl.O.P.Nos.19203 and 19226 of 2020** 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, Namakkal, and the petitioner in Crl.O.P.No.19417 of 2020** is 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 Judicial Magistrate-I, Namakkal, 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 shall stay at Tirunelveli and report before the 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.

(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/-
09/12/2020

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.I, NAMAKKAL.

2 THE JUDICIAL MAGISTRATE,
NO.II, NAMAKKAL.

3 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL. [FOR INFORMATION]

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
VAZHAVANDHINADU POLICE STATION,
SENDAMANGALAM,
NAMAKKAL DISTRICT.

6 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

+2 CC to M/S W.CAMYLES GANDHI Advocate on payment of
necessary charges SR.NO.8013, 8014

+1 CC to M/S.R.RAMACHANDRAN, Advocate on payment of
necessary charges SR.NO.8034

CRL OP.19203, 19226 & 19417/2020

Date :09/12/2020

TA-10/12/2020