

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.12.2020

CORAM :

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

CRL.O.P.Nos.19649 & 20314 of 2020

1. Begam Bee @ Begam Bee
2. Johara Bee @ Joharama

... Petitioners in
Crl.O.P.No.19649 of 2020

N.Nabibasha

... Petitioner in
Crl.O.P.No.20314 of 2020

Vs

State Rep by
The Inspector of Police,
Thiruvannainallur Police Station,
Villupuram District.
(Crime No.1681 of 2020)

... Respondent in all Crl.O.Ps

COMMON PRAYER: Criminal Original Petitions is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.1681 of 2020 on the file of the respondent police.

For Petitioners in
Crl.O.P.No.19649/2020 : Mr.M.Ranjith Kumar

For Petitioner in
Crl.O.P.No.20314/2020 : Mr.K.Panjamurthy

For Respondent in
both Crl.O.Ps : Mr.T.Shunmugarajeswaran
Government Advocate(Crl. Side)

C O M M O N O R D E R

(These cases have been heard through video conference)

The petitioners in Crl.O.P.No,19649 of 2020, who were arrested and remanded to judicial custody on 21.11.2020 for the offences punishable under Sections 147, 341, 120(B), 302, 34 of IPC, in Crime No.1681 of 2020, on the file of the respondent police, seek bail.

The petitioner in Crl.O.P.No.20314 of 2020, who was arrested and remanded to judicial custody on 02.11.2020 for the offences punishable under Sections 147,341, 120(B),302 and 34 of IPC, in Crime No.1681 of 2020, on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant Dhilshath is that on 31.10.2020 at about 1.30 p.m., while her husband Khaleel was coming in two wheeler, three persons waylaid him and assaulted him with Machete indiscriminately due to which he died. During the course of investigation, it came to light that due to

property dispute between the sons born to different wives of one Nanneaba, the accused have pre-planned and committed the murder.

3. The learned counsel appearing for the petitioners in Crl.O.P.No.19649 of 2020 would submit that the petitioners are innocent and they have been falsely implicated in this case based on the alleged confession recorded from the arrested accused. He would further submit that even as per F.I.R., only three persons are stated to have inflicted the cut injuries on the deceased due to which, he died. He would further submit that co-accused in this case who had been similarly placed, has been granted bail by this court vide Crl.O.P.19179 of 2020 by order dated 04.12.2020 and the allegation against the petitioners is that due to property dispute, the petitioners instigated the other accused to commit the murder and that the petitioners have been suffering incarceration from 21.11.2020. Hence, he prays for grant of bail.

4. The learned counsel appearing for the petitioner in Crl.O.P.No.20314 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. He would further submit that the petitioner was not present at the scene of occurrence and the allegation against him is that he had abetted the main accused to commit the murder and that the petitioner has been suffering incarceration from 02.11.2020. Hence, he prays for grant of bail.

5. The learned Government Advocate (Criminal Side) would vehemently oppose stating that due to property dispute, the petitioners instigated the main accused to commit the murder and based on the instigation, the other accused committed the murder of the husband of the defacto complainant. He would fairly concede that the co-accused in this case has been granted bail by this Court vide Crl.O.P.No.19179 of 2020 by order dated 04.12.2020.

6. Taking into consideration of the facts and circumstance of the case and the submissions made by the learned counsels and the fact that the co-accused in this case has been granted bail by this Court and also taking into consideration 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.No.19649 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 No.II, Ulundurpet, and

the petitioner in Crl.O.P.No.20314 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 No-II, Ulundurpet, 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 everyday 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.

7. With the above directions, these Criminal Original Petitions are ordered.

-sd/-

18/12/2020

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

TRUE COPY

सत्यमेव जयते

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

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, ULUNDURPET

2 THE JUDICIAL MAGISTRATE,
ULUNDURPET

3 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM (FOR INFORMATION)

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE
TIRUVENNAINULLUR POLICE STATION
VILLUPURAM

6 THE OFFICER INCHARGE,
SUB JAIL, CUDDALORE

7 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

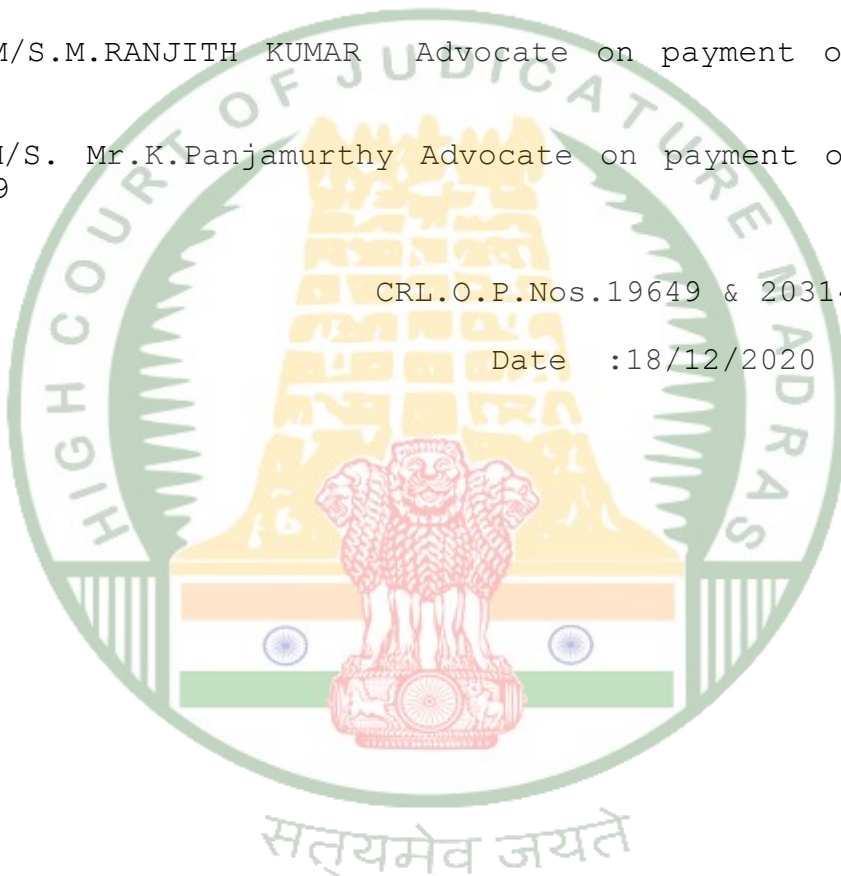
CC to M/S.M.RANJITH KUMAR Advocate on payment of necessary charges

+1CC to M/S. Mr.K.Panjamurthy Advocate on payment of necessary charges Sr.8459

CRL.O.P.Nos.19649 & 20314 of 2020

Date :18/12/2020

RVR 21/12/2020



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