

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.12.2020

CORAM :

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

CRL.O.P.No.20175 of 2020

1.K.Karthick
2.K.Raj Kamal

... Petitioners

Vs.

The Inspector of Police,
V-4, Rajamangalam Police Station,
Anna Nagar,
Chennai.
(Crime No.1072 of 2020)

... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Cr.P.C, to enlarge the petitioners on bail in Crime No.1072 of 2020 on the file of the respondent police.

For Petitioners : Mr.S.Saravana Kumar

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

O R D E R

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 15.11.2020 for the offence punishable under Section 174(3) of Cr.P.C., and later, it was altered into Section 302 of IPC, in Crime No.1072 of 2020, seek bail.

2. The case of the prosecution as per the de facto complainant Thilagavathy is that her son Balaji was working in CSS Marketing Limited and that on 14.11.2020, after celebrating Diwali, he had left the house at 3.00.p.m to meet his friends. In the late night, he did not return back to home, when the de facto complainant contacted him over mobile on the early morning, her son's cell phone was found switched off. While so on 15.11.2020 at about 5.00.a.m, her son's friend one Saravanan, called her and informed her that her son was found dead with injuries. Hence, the complaint. Based on the complaint, originally the case was registered for the offence under Section 174(iii) Cr.P.C. During the course of investigation, it came to light that the de facto complainant's son assaulted one Sharath

earlier, due to which, during a fight, the other accused assaulted her son, due to which, he sustained internal injuries and died.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would submit that the petitioners and the deceased belong to the same area and that during Diwali night, they were having a party, during the period, there was a quarrel and at that time, the petitioners are alleged to have assaulted the de facto complainant's son with hands. He would submit that the postmortem report shows that the victim had died due to internal injuries and that there is absolutely no external injury was found on the victim. He would submit that the petitioner did not have any motive to cause the murder of the deceased and that the occurrence had happened during a drunken brawl. He would submit that the petitioners were arrested on 15.11.2020 and that the major part of the investigation is also over and hence, he prays to grant bail to the petitioners.

4. The learned Government Advocate (Crl. Side) appearing for the respondent police would vehemently oppose stating that the petitioners and the deceased are known to each other and that on an earlier occasion, the deceased assaulted one Sharath, who is the friend of the petitioners herein and thereby, the petitioners were antagonized and on the night of Diwali, there was a quarrel, during which, the petitioners are alleged to have assaulted the victim with hands, due to which, he sustained grievous injuries and died. He would further submit that no external injury was found on the deceased and that no weapon was used in the incident.

5. Heard the learned counsel on either side and perused the FIR.

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 petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner 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 XIII Metropolitan Magistrate, Egmore, 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 petitioner, on his release from the prison, shall stay at Sivagangai and report before the Sivagangai Town Police Station everyday at 10.30 a.m. until further orders;

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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, this Criminal Original Petition is ordered.

-sd/-

22/12/2020

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 METROPOLITAN MAGISTRATE
NO.XIII, EGMORE, CHENNAI

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE
V-4, RAJAMANGALAM POLICE STATION,
ANNA NAGAR, CHENNAI.

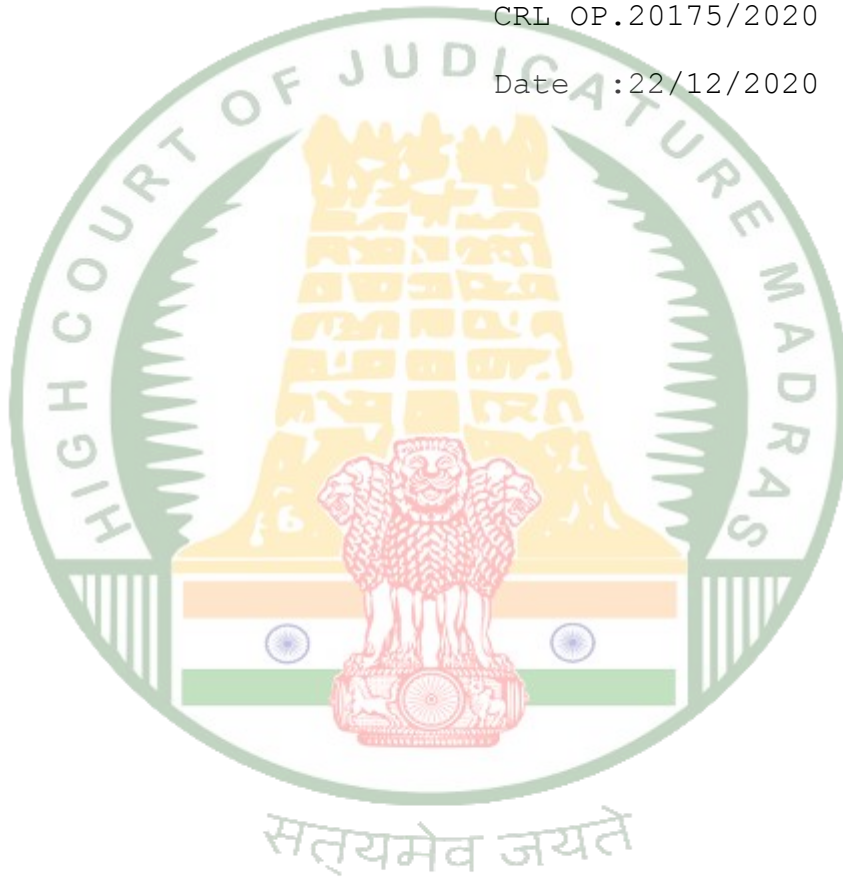
6 THE OFFICER INCHARGE
SIVAGANGAI TOWN POLICE STATION
SIVAGANGAI.

+2 CC to S.SARAVANA KUMAR Advocate on payment of necessary charges
SR.No.8538

CRL OP.20175/2020

Date :22/12/2020

cs 23/12/2020



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