

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.12.2020

CORAM :

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

CRL.O.P.Nos.20194 & 20619 of 2020

Suresh

... Petitioner in Crl.O.P.No.20194/2020

Nandha @ Nandha Kumar

... Petitioner in Crl.O.P.No.20619/2020

Vs.

State by

Inspector of Police,
E-1, Ponneri Police Station,
Ponneri, Ponneri Taluk,
Tiruvallur District.
(Crime No.3096 of 2020)

... Respondent in both Crl.O.Ps

COMMON PRAYER: Criminal Original Petitions are filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.3096 of 2020 on the file of the respondent police.

For Petitioner in
Crl.O.P.No.20194/2020 : Mr.V.Ramana Reddy

For Petitioner in
Crl.O.P.No.20619/2020 : Mr.Syed Nizamuddin
Ahmed Hussaini

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

COMMON ORDER

(These cases have been heard through video conference)

The petitioner in Crl.O.P.No.20194/2020, who was arrested and remanded to judicial custody on 27.10.2020 and the petitioner in Crl.O.P.No.20619/2020, who was arrested and remanded to judicial custody on 25.10.2020 for the offence punishable under Sections 147, 148, 324, 302 of IPC, in Crime No.3096 of 2020 on the file of the respondent police, seek bail.

2.The case of the prosecution as per the de facto complainant viz. Srinivasan is that on 23.10.2020 around 9.50 a.m. when the defacto complainant along with his cousin Saravanan was returning back to their house, the accused came in a white car, hit them from behind, due to which, both of them fell down, at that time, four persons got down from the car and they were in possession of deadly weapons and on seeing them, the defacto complainant instructed his cousin to run and both of them ran to save their lives, but the accused caught hold of the deceased / Saravanan and cut him indiscriminately and also attacked him with deadly weapons, due to which, he sustained eight cut injuries and died on the spot.

3.The learned counsel appearing for the petitioner in CrI.O.P.No.20194 of 2020, would submit that the petitioner is innocent and he has been falsely implicated in this case, based on the confession of the A1. He would further submit that the name of the petitioner does not find place in the F.I.R. and he has been arrested and remanded to judicial custody on 27.10.2020. He would further submit that other than this case, the petitioner is having only one case which has been registered for the offence of TNP Act and he has no other IPC cases against him.

4.The learned counsel for the petitioner in CrI.O.P.No.20619 of 2020 would submit that the petitioner has been falsely implicated in this case, based on the confession statement of the main accused Mahesh and that the petitioner is not having any previous cases against him and he is in custody for more than 59 days and that the major part of the investigation in this case is over.

5.The learned Government Advocate (CrI.Side) appearing for the respondent police would vehemently oppose stating that the petitioners are the hirelings of one Mahesh. The said Mahesh had enmity with the deceased on getting the contract in Mahendra City, due to the previous enmity, the accused pre-planned and committed the murder of the deceased Saravanan by cutting him indiscriminately with Aruval, due to which, the victim succumbed to injuries on the spot due to the brutal attack committed by the petitioners. He would further submit that the investigation is pending.

6.Heard the learned counsel appearing for the petitioners as well as the learned Government Advocate (CrI.Side) appearing for the respondent and perused the materials available on record.

7.Taking into consideration of the facts and circumstance of the case and the submissions made by the learned counsels and 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 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 No.I, Ponneri, 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 Theni and report before the Theni 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.

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

-sd/-

23/12/2020

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, PONNERI.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVALLUR [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
E-1, PONNERI POLICE STATION,
PONNERI, PONNERI TALUK,
TIRUVALLUR DISTRICT.

6 THE OFFICER INCHARGE
THENI TOWN POLICE STATION,
THENI.

+1 CC to M/S.V.RAMANAREDDY Advocate on payment of necessary
charges SR.No.8607

CRL OPs.20194 & 20619/2020

Date :23/12/2020

cs 28/12/2020

सत्यमेव जयते

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