

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.No.20312 of 2020

1.D.MAGESH @ MAGI

2.B.RAJI

3.S.KARTHICK

4.ABDUL AJEES @ AJEES

... Petitioners

Vs.

State Rep.by its:-

The Inspector of Police

B-2 Thiruvallur Taluk Police Station,

Thiruvallur District.

(Crime No.1683 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.1683 of 2020 on the file of the respondent police.

For Petitioners : Mr.C.Balaji

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 26.09.2020 for the offence punishable under Section 302 of IPC @ 147, 148, 302 of IPC, in Crime No.1683 of 2020, seek bail.

2. The case of the prosecution as per the de facto complainant Anitha is that she married the deceased Dinesh and they have one child and that they were running a photo studio and a cell phone service shop near Putlur Railway Station Road, Thiruvallur. Further, the husband of the de facto complainant had illicit intimacy with one Kottiswari/wife of the first accused-Prakash in this case, due to which, the first accused Prakash assaulted his wife Kottiswari with knife and caused grievous injury in her leg and other vital parts of her body, for which, he was in jail. Subsequently, the first accused had threatened the de facto complainant's husband that he should sever the relationship with his wife and if not, he will be done to death. While so, on 23.09.2020, when her husband was in the studio, four persons have trespassed into the studio, cut her husband's head indiscriminately, due to which, her husband was found dead in the studio. Hence, the complaint.

3.The learned counsel appearing for the petitioners would submit

that the petitioners are innocent and they have been falsely

implicated in this case since the respondent believes that the petitioners are the friends and associates of the first accused in this case. He would submit that the wife of the first accused Kottiswari had illicit intimacy with the deceased Dinesh and the prosecution says that it is the motive for crime. He would submit that even as per the FIR, the petitioners' names do not find place in the FIR and that they have been falsely implicated in this case based on the confession statement recorded from the first accused Prakash. He would submit that A1 has been detained under Act 14 of 1982 and as far as the complaint is concerned, there is no eye-witness to the occurrence. He would submit that the petitioners have no previous case against them and the co-accused in this case have been granted bail by this Court vide CrI.O.P.No.19942 of 2020 by order dated 15.12.2020 and the petitioners are prepared to abide any stringent conditions that may be imposed by this Court and that they have been suffering incarceration from 26.09.2020. Hence, he prays for grant of bail to the petitioners.

4. The learned Government Advocate (CrI. Side) appearing for the respondent police would vehemently oppose stating that the petitioners are the friends of one Prakash-A1 and that the wife of Prakash-A1 developed illicit intimacy with the deceased Dinesh and thereby, the first accused warned the deceased to sever the relationship with his wife. Since he continued the relationship, the first accused along with other accused committed the murder of the victim by cutting him indiscriminately with deadly weapons. He would submit that the first accused in this case has been detained under Act 14 of 1982 and that the investigation is pending.

5. Taking into consideration the facts and circumstances of the case and the submissions of the learned Counsels and the fact that the co-accused in this case have been granted bail by this Court 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 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-I, Thiruvallur, 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 Sivagangai and report before the Town Police Station 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.

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

-sd/-

18/12/2020

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, THIRUVALLUR

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI

5 THE INSPECTOR OF POLICE,
B-2 THIRUVALLUR TALUK POLICE STATION,
THIRUVALLUR DISTRICT.

+2 CC to Mr.C.Balaji Advocate on payment of necessary charges
Sr.8426

CRL OP.20312/2020

Date :18/12/2020

RVR 21/12/2020