

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.Nos.20535, 20545, 20547 & 20553 of 2020

Arun	... Petitioner in Crl.O.P.No.20535/2020
Selvam	... Petitioner in Crl.O.P.No.20545/2020
Appu @ Velan	... Petitioner in Crl.O.P.No.20547/2020
Murugesan	... Petitioner in Crl.O.P.No.20553/2020

Vs.

The State Rep. by
Inspector of Police,
Koothanallur Police Station,
Koothanallur, Tiruvarur District.
(Crime No.1572 of 2020)

... Respondent in all 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.1572 of 2020 on the file of the respondent police.

For Petitioners in
all Crl.O.Ps : Mr.B.Jawahar

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

COMMON ORDER

(These cases have been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 16.10.2020 for the offence punishable under Sections 147, 148, 294(b), 324, 506(ii) & 302 of IPC, in Crime No.1572 of 2020 on the file of the respondent police, seek bail.

2.The case of the prosecution as per the de facto complainant Rajendran is that his son Kalidoss was working in Malaysia and that he had returned to native village two months back and that the de facto complainant's relative one Sharmila was living in Quide Millath Street and her husband was living abroad and that there was a dispute between the said Sharmila and the first accused Selvam with regard to fence and whenever, the de facto complainant's son had gone to Sharmila's house, the dog belonging to the first accused barked at him and that the de facto complainant's son had attacked the dog and caused injury, due to which, there was enmity. Consequent to that, the de facto complainant's son Kalidoss had caused damage to the

vehicle of the first accused Selvam. While so on 13.10.2020, the son of the de facto complainant gone to the house of Sharmila and at that time, the accused had entered into the house of Sharmila, abused Sharmila and the deceased Kalidoss with filthy language and thereafter, assaulted the son of the de facto complainant, fearing danger, the de facto complainant's son had run out of the house and at that time, the accused had assaulted him with iron rods and building tools and stones, due to which, the de facto complainant's son sustained injuries and died on the spot.

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 deceased is a notorious element and that earlier, he had assaulted the first accused and also caused damage to the vehicle. Further, he was also having various other enemies and that on an earlier occasion, the deceased had also attacked the dog belonging to the first accused. In that case on 13.10.2020, after getting anticipatory bail, the de facto complainant's son went to the house of the petitioners and created problem and also quarreled, during the quarrel, the petitioners are stated to have assaulted him. He would submit that there was no premeditation or intention to assault the deceased and that the occurrence had happened during quarrel and that during quarrel, building materials and wooden log are stated to have been used and that the petitioners are alleged to have assaulted with building materials, iron rods and stones, due to which, the son of the de facto complainant died. He would submit that the investigation has been completed and the charge sheet has been laid and the case has been taken on file in PRC.No.64 of 2020 pending on the file of the learned Judicial Magistrate, Mannargudi. He would further submit that the accused A1-Selvam, A3-Appu @ Velan and A4-Arun surrendered on 21.10.2020 before the learned Judicial Magistrate, Pavanasam and A7-Murugesan was arrested on 16.10.2020 by the respondent.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police would vehemently opposed stating that there was existing enmity between the deceased and the accused. He would submit that the deceased had illicit intimacy with one Sharmila, who was the neighbor of the petitioners, due to which, the deceased had gone into the house of Sharmila and the dog belonging to the first accused barked at him and that the deceased had attacked the dog of the first accused and thereby, there was previous enmity. Further, on an earlier occasion, the deceased along with his friends caused damage to the two wheeler, due to which there was existing enmity between them. He would submit that on 13.10.2020, there was a quarrel, during the quarrel, the petitioners have assaulted the deceased with building materials, due to which, the skull of the deceased got fractured and that he died on the spot. He would submit that the investigation has been completed, final report has been filed and the case has been taken on file in PRC.No.64 of 2020 pending committal on the file of the learned Judicial Magistrate Mannargudi. He would further submit that tension prevails in the village.

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

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 investigation has been completed and the final report has been filed 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 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.II, Mannargudi, 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 Krishnagiri and report before the J.M. No.I, Krishnagiri 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/-

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 JUDICIAL MAGISTRATE,
NO.II, MANNARGUDI

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVARUR (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KOOTHANALLUR POLICE STATION,
KOOTHANALLUR, TIRUVARUR DISTRICT.

5 THE OFFICER INCHARGE,
SUB JAIL, NAGAPATTINAM.

6 THE JUDICIAL MAGISTRATE,
NO.I, KRISHNAGIRI

+4 CC to M/S.B.JAWAHAR Advocate on payment of necessary charges
Sr.Nos.8572,8575,8573 & 8574

CRL.O.P.Nos.20535, 20545, 20547 &

20553 of 2020

Date :22/12/2020

RVR 23/12/2020