



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 05/11/2020

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PRESENT

The Hon'ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.10950 of 2020

Murugan

... Petitioner/Accused No.2

Vs

State Through its
Inspector of Police,
CBI Police Station,
Rc.0502020S0009 of 2020.

... Respondent/Complainant

For Petitioner : M/s.T.A.Ebenezer,
Advocate.

For Respondent : Mrs.L.Victoria Gowri,
Assistant Solicitor General of India

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

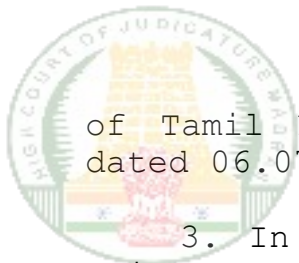
PRAYER :-

For Bail in Crime No.9 of 2020 on the file of the Respondent of Police.

ORDER : The Court made the following order :-

The petitioner/A2, who was arrested and remanded to judicial custody on 01.07.2020 for the offences punishable under Sections 302,342,201 r/w.109 of IPC on the file of the respondent police seeks bail.

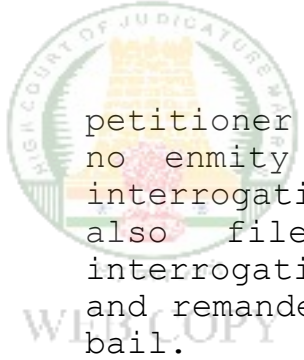
2.The case of the prosecution is that one P.Jeyaraj and his son Benniks were in police custody at Sathankulam Police Station, Thoothukudi District in the evening of 19.06.2020 and during the intervening night of 19.06.2020 and 20.06.2020 and their subsequent death in judicial custody in the intervening night of 22.06.2020 and 23.06.2020. Initially both the cases were registered by CBCID Police, Thoothukudi in Crime No. 02 of 2020. Thereafter the investigation has been transferred to the file of the respondent herein pursuant to the Notification No. G.O.(2D)No.150, Home (Police VIII) Department dated 29.06.2020 issued by the Government



of Tamil Nadu and subsequent Notification No.228/16/2020- AVD.II dated 06.07.2020 issued by the Government of India.

3. In pursuance to the First Information Report registered in Crime No. 312 of 2020 for the offences punishable under Sections 188, 269, 353 and 506(ii) of IPC on the file of the Sathankulam Police Station the first deceased P.Jeyaraj remanded to judicial custody in the Sub Jail, Kovilpatti on 20.06.2020. While being so on 22.06.2020 at about 10.20 pm., the prisoner suffered complaint of fever and he was sent to Government Hospital, Kovilpatti on 23.06.2020 at about 5.40 a.m., The duty doctor informed that the medical treatment failed and the prisoner died. On the complaint lodged by the Duty Doctor, Government Hospital, Kovilpatti First Information Report has been registered in Crime No. 650 of 2020 for the offences under Sections 176(1A)(i) of Cr.P.C on the file of the Inspector of Police, Kovilpatti(East) Police Station, Thoothukudi District. Inquest was conducted by the learned Judicial Magistrate No.1, Kovilpatti and found multiple injuries on the body of the deceased P.Jeyaraj. Thereafter autopsy was conducted by a Board of three doctors from Forensic Medicine and Toxicology Department of Tirunelveli Medical College, Tirunelveli, and they gave an opinion that the deceased would appear to have died of complications of blunt injuries sustained. Thereafter the Honourable Division Bench of Madras High Court has taken *Suo Motu* Writ Petition in W.P.(MD)No.7042 of 2020 and ordered investigation by CBCID. Accordingly CBCID took the entire investigation in Crime No. 2 of 2020 and altered the offences under Sections 302, 342, 201 of IPC r/w. 109 of IPC. The police officials of the Sathankulam police Station were arrayed as accused and remanded to judicial custody on 01.07.2020. Thereafter by the virtue of the G.O the respondent has taken the entire investigation and registered a fresh First Information Report in RC.0502020S0009 of 2020.

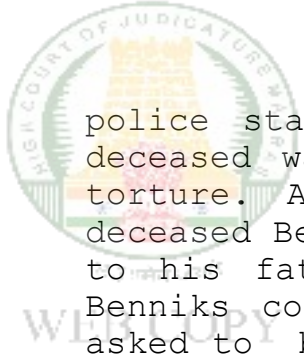
4. The learned counsel for the petitioner would submit that the two persons namely P. Jeyaraj and Benniks were arrested and remanded to judicial custody in pursuance to the Crime No. 312 of 2020 for the offences under Sections 188, 269, 294(b), 353 and 506 (ii) of the Indian Penal Code on 19.06.2020 and both the prisoners were admitted in the Government Hospital, Kovilpatti and died. The allegation against the petitioner is that he attacked the deceased person and caused injuries and also destroyed the evidence. He further submitted that the petitioner is working as a Head Constable in the Sathankulam Police Station at about 08.15 p.m., and when he entered into the police Station the Inspector of Police and the Sub Inspector of Police attached to the police station compelled the petitioner to sign in the typed complaint against the deceased registered in Crime No. 312 of 2020 against the deceased. The petitioner being the Constable had no other option signed the complaint. Except signing the complaint he did not know what happened to the deceased person before 08.15 pm.,. The petitioner being the Sub ordinate to the Inspector and Sub Inspector of Police he just followed down the instructions given by them. As far as the



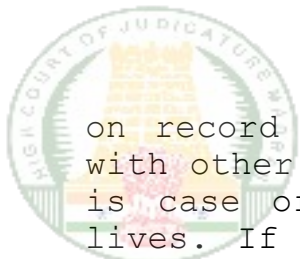
petitioner is concerned he never touched the deceased since there is no enmity between the petitioner and the deceased. Custodial interrogation was taken by the respondent and charge sheet was also filed by the respondent herein, therefore custodial interrogation may not be required and the petitioner was arrested and remanded to judicial custody on 01.07.2020, hence he sought for bail.

5. The learned Assistant Solicitor General of India appearing for the respondent submitted that earlier bail petition filed by the petitioner was dismissed by this Court on 01.10.2020 in Crl.O.P(MD) No.9938 of 2020 and as such there is no change of circumstances to consider the bail petition of the petitioner herein. She further submitted that the investigation reveals that the deceased persons were taken to police custody for the allegation that the during the lock down period he opened the shop beyond 8.00 pm., Therefore he was tortured by the police and attacked brutally and sustained injuries and later died. The Post Mortem Certificate reveals that due to blunt injuries sustained by the deceased person during the custody, he died . All the accused persons conspired together and tortured the deceased. Sofar as the petitioner is concerned he also actively involved in the crime and registered a false complaint against the deceased person in Crime No.312 of 2020. She further submitted that the respondent filed a charge sheet and there is a strong possibility that the petitioner may tamper the evidence and also hamper the witnesses. On perusal of the medical examination report, it is seen that while deceased was in custody he sustained injuries in his buttocks, back and all over the body. When the deceased person was brought to the Government Hospital, Sathankulam in the morning of 20.06.2020 he sustained grievous injuries in his buttocks, back and all over the body. Blood was oozing out from the said injuries which were inflicted during the custodial torture in the Sathankulam Police Station and prayed for dismissal of the petition.

6. It is a case of double murder, in which both the father and son were murdered during their custody in pursuance to the First Information Report registered in Crime No. 312 of 2020 for the offences punishable under Sections 188,269,353 and 506(ii) of IPC on the file of the Sathankulam Police Station. There are totally 10 accused in this case and the petitioner herein is arrayed as A4. Pursuant to the criminal conspiracy headed amongst the police officials of Sathankulam Police Station the deceased Jeyaraj was picked up by the accused persons from Kamaraj South Street on 19.06.2020 at about 7.30 pm., by their vehicle and thereafter his son was informed about that and immediately he rushed to the police vehicle and enquired about the arrest of his father . Thereafter he was asked to come to the police station for enquiry. The deceased Jeyaraj was taken to the Sathankulam Police Station and was illegally and wrongfully confined in the police station. Another deceased his son was also directed to come to the police Station and as such he along with his friend Ravisankar went to the



police station by their two wheeler where they found that the deceased was beaten by the accused persons and subjecting him to torture. All the accused persons together started beating the deceased Benniks, when he questioned about the torture given by them to his father. This process of brutal torture of the deceased Benniks continued for hours within the police station. They were asked to bent down and the hands and legs were caught hold by some of the accused persons and they were attacked brutally . Therefore they sustained grievous injuries on their buttocks, back and other parts of the body. All the accused persons continued several running brutal torture in the intervening night of 19.06.2020 and 20.06.2020. In furtherance to their criminal conspiracy a false case has been foisted against the deceased in crime No. 312 of 2020. The petitioner herein filed a false complaint and the First Information Report has been registered against the deceased. It is also seen that there is no violation of lock down rules by the deceased persons in the evening of 19.06.2020. In fact the shops were allowed to be opened till 8.00 pm., and even according to their version the deceased was taken to police station at about 7.30 pm., for a reason that he opened the shop beyond 8.00 pm., during the lock down period. Thereafter they were produced before the Medical Officer, Government Hospital were medical examination and the medical examination revealed that the deceased sustained several injuries on their buttocks, back and several parts of the body, but they deemed as fit for remand. In fact they were asked to change their dress several times before taking to Government Hospital. Investigation also reveals that their dress were thrown into dustbin of the Government Hospital, Sathankulam. After medical examination they were taken to the Sub Jail, Kovilpatti for remand on 20.06.2020 at about 02.30 pm., and their injuries were recorded by the jail staff in the register during physical inspection. Due to multiple injuries sustained by them they were having trouble in their breathing and admitted in the Government Hospital, Kovilpatti. Thereafter they died due to injuries sustained by them. Medical record also reveals the fact that due to the physical torture given to both the deceased during the police custody by the accused persons in their gluteal region and other parts of the body and other medical complications like high blood pressure, sugar which finally resulted into their death. Inquest report also reveals that 18 injuries were found on their body. In furtherance to the conspiracy and with the common intention all the accused persons had brutally tortured the deceased and as such they inflicted severe injuries and died. Now the respondent completed investigation and filed final report and so far as the petitioner is concerned, charge levelled against him is for offences under Section 120(B) r/w. 302,342,201,182,193,211, 218 r/w.34 of IPC. Two Women Police Constable of the same police station are eye witness to the said occurrence. The perusal of the statement recorded under Section 164 (5) of Cr.P.C it is seen that all the accused persons detained both the deceased illegally and also indulged in custodial torture, therefore this Court by an order dated 01.10.2020 dismissed the bail petition of the petitioner on the ground that materials available



on record *prima facie* disclose the fact that the petitioner along with other accused persons had committed the offence. That apart it is case of custodial death in which two persons have lost their lives. If the petitioner is released on bail there is reasonable apprehension that the witnesses are likely to be tampered when some of the witnesses were working in the same police station. Though the respondent now filed the final report this Court finds that there is absolutely no change in circumstances of the case to consider the bail petition.

7. Considering the above facts and circumstances of the case and also taking into consideration the nature of allegations and gravity of offence committed by the petitioner, this Court is not inclined to grant bail to the petitioner.

8. Hence the petition stands dismissed.

sd/-
05/11/2020

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE ADDITIONAL SUPERINTENDENT OF POLICE,
CBI, SC II, NEW DELHI.
2. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
3. THE INSPECTOR OF POLICE,
CBI POLICE STATION,
RC.0502020S0009 OF 2020
4. THE SPECIAL PUBLIC PROSECUTOR FOR CBI CASES,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.10950 of 2020
Date : 05/11/2020