



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 26/11/2020

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PRESENT

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

CRL OP(MD). No.12168 of 2020

S.Veilmuthu

... Petitioner/Accused No.9

Vs

The Inspector of Police,
CBI, New Delhi.

Case No.RC 0502020 S0009

... Respondent/Complainant

For Petitioner : M/s.G.Gomathi Sankar,
Advocate.

For Respondent : Mrs.L.Victoria Gowri,
Special Assistant Solicitor General for CBI Cases

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

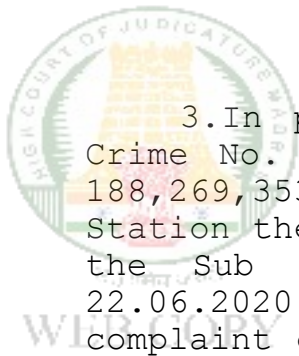
PRAYER :-

For a Bail in Case No RC.050 2020 S0009 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A9, 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 pursuance 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.

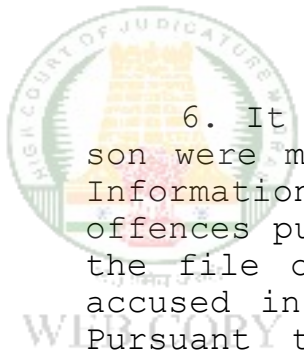


3. In pursuance to the First Information Report registered in Crime No. 312 of 2020 for the offences punishable under Sections 188, 269, 353 and 506(ii) of IPC on the file of the Sathankulam Police Station the first deceased P.Jeyaraj remanded to judicial custody in the Sub Jail, Kovilpatti on 20.06.2020. While being so, on 22.06.2020 at about 10.20 pm., the prisoner/ Jeyaraj suffered complaint of fever and the prisoner / Benniks suffered complaint of wheezing problem and they were 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 Nos. 649 and 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 and Benniks. 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 injury 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 Nos. 1 and 2 of 2020 and altered the offences under Sections 302, 342, 201, 182, 193, 211, 218 of IPC and Section 34 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.No. 0502020S0009 of 2020.

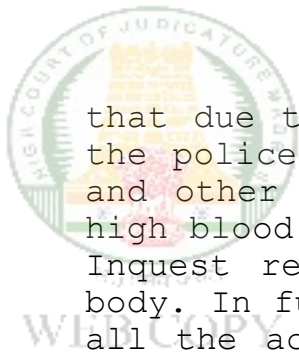
4. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case and he did not commit any offence as alleged by the prosecution. He would also submit that the petitioner from the alleged date of joining his service in the police department he has been diligently working to the entire satisfaction of his superiors without any adverse remarks and the petitioner was working as a Writer of the First Information Report in the computer section in the Sathankulam Police Station. He would also submit that there was no allegation against the petitioner in the First Information Report but he was called for enquiry by the CBCID Police and remanded by them on 01.07.2020. He would also submit that the petitioner is in jail for more than 100 days. The custodial interrogation of the petitioner was taken by the respondent and charge sheet was also filed by the respondent herein, as such 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 petitioner/ accused and other police officials were arrested when investigation revealed the fact that the deceased J.Beniks and his father P.Jeyaraj had sustained grievous injuries during the brutal torture and beating in the Sathankulam Police Station and the petitioner/accused actively participated in the torture of the deceased persons. As evident from the initial medical examination report of deceased P. Jeyaraj furnished by the Government Hospital Sathankulam before his judicial custody remand from the admission register of Kovilpatti Sub Jail, inquest report and post mortem reports both had injuries on their buttocks etc and other parts of their body. Besides the above there is ample evidence on record to show that when J. Beniks and P. Jeyaraj were brought to the Government Hospital, Sathankulam by the Sathankulam Police in the morning on 20.06.2020 they had serious injuries on their buttocks,back and other parts of the body from which blood was found to be oozing out. Meaning thereby the said injuries which were sufficient in ordinary course of nature to cause death, were inflicted on deceased J.Beniks and P. Jeyaraj during their brutal torture preceding night in the premises of police station, Sathankulam in which petitioner/ accused had also participated. Not only this, in pursuance of criminal conspiracy hatched amongst the accused police officials, a false criminal case vide Crime No. 312 of 2020 Sathankulam Police Station was also foisted on both the deceased by the accused police officials on the basis of a false complaint submitted by the accused Murugan just in order to cover up the acts of commission on the part of accused police officials. Needless to mention the fatal injuries on the body of deceased J. Beniks and P. Jeyaraj are also substantiated by the inquest report submitted by the learned Judicial Magistrate No.I, Kovilpatti. The Post Mortem Report also establishes that deceased J. Beniks and P. Jeyaraj died on the complications of blunt injuries sustained. Petitioner/accused had actively participated in the brutal torture of deceased persons in the evening and intervening night of 19-20.06.2020. Not only this in pursuance of a criminal conspiracy hatched amongst the accused police officials, a false criminal case Crime No. 312 of 2020 was also registered against the deceased, just in order to cover up the acts of commission on the part of police officials arrested in this case. On the basis of sufficient evidence oral as well documentary, a common charge sheet in both the cases i.e., RC 0502020S 008 and RC 050 2020S 0009 has already been filed in the competent Court on 25.09.2020 for commission of offence under Sections 120(B) IPC r/w. Sections 302,342,201,182, 193,211, 218 and Section 34 of IPC and substantive offences thereof. Cognizance of offence has been taken by the Court. She would also submit that if the petitioner is released on bail there is a strong possibility of the emergence of other offence also on the part of the accused and other accused persons, hence she 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 A3. 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 where 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 dust bin 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/-
26/11/2020

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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 INSPECTOR OF POLICE,
CBI, NEW DELHI,

2. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3. THE SPECIAL PUBLIC PROSECUTOR FOR CBI CASES,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.G.GOMATHI SANKAR Advocate SR.No.22820

ORDER

IN

CRL OP(MD) No.12168 of 2020

Date :26/11/2020

AAV

TK/PN/SAR.2/16.12.2020/6P/5C