



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 26/11/2020

PRESENT

WEB COPY

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

CRL OP(MD) Nos.12389 and 12392 of 2020

CRL OP(MD)No.12389 of 2020:

Muthuraj ... Petitioner/Accused No.5

Vs

State:Through its
The Inspector of Police,
CBI P.S, New Delhi
RC.0502020S0009 of 2020. ... Respondent/Complainant

CRL OP(MD)No.12392 of 2020:

Muthuraj ... Petitioner/Accused No.6

Vs

State:Through its
The Inspector of Police,
CBI P.S, New Delhi
RC.0502020S0008 of 2020. ... Respondent/Complainant

J.Selvarani ... Intervene Petitioner/Deceased's Wife
IN CRL MP(MD)Nos.5976,5977 of 2020
IN CRL OP(MD)Nos.12389,12392 of 2020

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

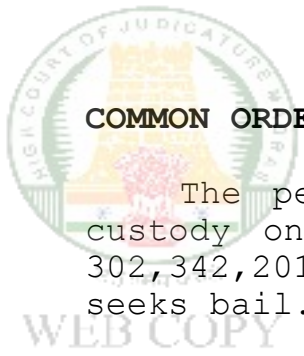
For Intervenor : Mr.T.Lajapathi Roy, Advocate
In Both Petitions

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

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

COMMON PRAYER :-

For Bail in RC No.0502020S0009 and RC.0502020S0008 of 2020 of
<https://hcservices.ecourts.gov.in/hcservices/> 2020 on the file of the Respondent Police

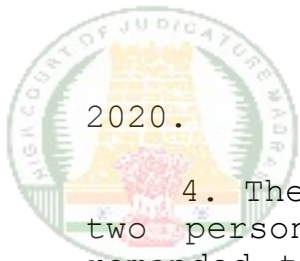


COMMON ORDER : The Court made the following order :-

The petitioner/A6, who was arrested and remanded to judicial custody on 03.07.2020 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.

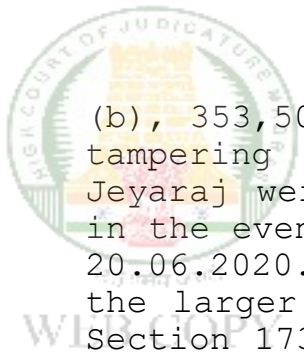
3. In pursuance to the First Information Report registered in Crime No. 312 of 2020 for the offences punishable under Sections 188, 269, 353 and 506(ii) of IPC on the file of the Sathankulam Police Station the first deceased P.Jeyaraj remanded to judicial custody in the Sub Jail, Kovilpatti on 20.06.2020. While being so on 22.06.2020 at about 10.20 pm., the prisoner/ 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.Nos. 0502020S0008 of 2020 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. He would submit that the overt act as against the petitioner is that alleged torture that too on the statement recorded from two eye witnesses. One of the eye witness namely Revathi, Head Constable had given two statements before the Judicial Magistrates. One statement before the learned Judicial Magistrate No.I, Kovilpatti on 28.06.2020 and another statement before the learned Judicial Magistrate No.III, Thoothukudi on 03.07.2020. The allegation against the petitioner is that he attacked the deceased persons and caused injuries. He further submitted that the petitioner is only working as a Constable in the Sathankulam Police Station. While being so, the Inspector of Police and the Sub Inspector of Police compelled him to be a witness to the typed complaint as against the deceased. Thereafter the said complaint was registered in Crime No. 312 of 2020 as against the deceased. The petitioner being a constable having no other option signed in the complaint. Except standing as witness the petitioner did not know anything about the deceased persons. Since the petitioner had no previous enmity between the deceased and as such there is absolutely there is no necessity to attack the deceased. He further submitted that the petitioner was taken to custodial interrogation and the respondent police also completed investigation and also filed final report before the concerned Court, therefore after filing charge sheet the judicial custody of the petitioner may not be required. Further the petitioner is in jail from 03.07.2020, hence he seeks bail.

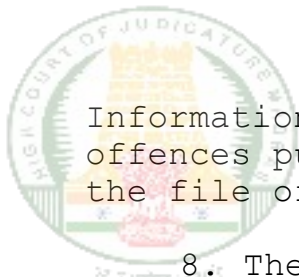
5. The Special Assistant Solicitor General of India appearing for the respondent would submit that the earlier petition of the petitioner was dismissed by this Court by a detailed order on merits and there is no fresh ground after the order of dismissal of the earlier bail petition of the accused and the same is not tenable. During investigation conducted by CBI so far, complicity of the petitioner/accused along with other charge sheeted accused persons is *prima facie* established in the case and therefore in view of the sufficient evidence oral, documentary as well as scientific/forensic a charge sheet against them has already been filed in the competent court which has already taken cognizance of offence against all the accused persons including the petitioner/accused. As per the evidence collected during investigation conducted so far, accused/petitioner Murugan has emerged as one of the prime accused in as much as he has been found to be involved in brutal torture of deceased Benniks and Jeyaraj and the submission of a false complaint against both the deceased leading to registration of a false case



(b), 353,506(ii) of Sathankulam Police Station dated 19.06.2020 for tampering of records for the purpose while deceased Beniks and Jeyaraj were in the illegal custody at Sathankulam Police Station in the evening of 19.06.2020 and during the intervening night of 19-20.06.2020. More over further investigation in the case to unearth the larger conspiracy and on other aspects is still pending under Section 173(8) Cr.P.C and therefore released of the accused at this juncture would be detrimental to the interest of ongoing further investigation by CBI as well as upcoming trial in the case. Further the copy of the charge sheet and the statements of the witnesses recorded under Section 161 Cr.P.C/164 Cr.P.C wer placed on record on the orders of this Honourable High Court during the hearing of earlier bail petition in Crl.O.P(MD) No. 8091 of 2020 and 9935 of 2020 filed by the petitioner/accused and this Court had dismissed the bail petition on merits after a detailed hearing and perusal of records of the case. Further it has been established during CBI investigation that during the process of torture of both the deceased by the accused police officials, fatal injuries sufficient in the ordinary course of nature to cause death, were inflicted on the body of both the deceased and both of them died due to the complications of the said injuries in the ordinary course of nature, as evident from their inquest reports, Post Mortem Reports and the findings of the learned Judicial Magistrate who conducted judicial enquiry into death of two deceased as per the order of this Court, hence she prayed for dismissal of the said petition.

6. The learned counsel for the intervenor/ defacto complainant would submit that the defacto complainant being the wife of the deceased Jeyaraj and mother of the deceased Benniks would submit that both the deceased were subjected to brutal torture by the accused persons attached to the Sathakulam Police Station. In so far as the petitioner is concerned he was working as a constable of the Sathankulam Police Station during the relevant point of time. On 19.06.2020 he along with other accused persons brutally tortured them at the time of enquiry. He further submitted that the petitioner signed in the fabricated complaint as witness as instructed by the senior office. On seeing the CCTV footage the entire allegations made in the First Information Report in Crime No. 312 of 2020 is nullified and there was no commotion when the deceased were going to the police station. When the deceased reached the police station they obeyed the order of the police. Thus the petitioner concocted a false case with malicious intention and raised so many grounds for not granting bail to the petitioner. He further submitted that if the petitioner is released on bail he will certainly abscond and escape from the clutches of law since the witnesses including the Sub ordinates of the petitioner he would easily reach them, hence she opposed to grant bail to the petitioner.

7. It is a case of double murder, in which both the father and son were murdered during their custody in pursuance to the First

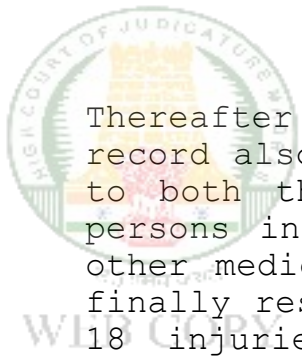


Information Report registered in Crime No. 312 of 2020 for the offences punishable under Sections 188,269,353 and 506(ii) of IPC on the file of the Sathankulam Police Station.

8. There are totally 10 accused in this case and the petitioner herein is arrayed as A6. 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.

9. 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 was conducted 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

<https://hcceresthain.gov.in/hcceresthain/> service/ 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.

10. 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. From 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.

11. 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.

12. Hence these petitions stand 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 P.S, NEW DELHI

2. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

ORDER

IN

CRL OP(MD) Nos.12389 and
12392 of 2020

Date : 26/11/2020

AAV

TK/PN/SAR.2/16.12.2020/7P/4C