



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

Date : 10/11/2020

PRESENT

**The Hon`ble Mr.Justice S.M.SUBRAMANIAM**

**CRL OP(MD).Nos.12665 & 12666 of 2020**

S.Sridhar

... Petitioner/A4  
in Both Petitions

Vs

1.Additional Superintendent of Police,  
CBI, SC II, New Delhi.

(Case No. RC 0502020 S 009 in Crl.OP(MD)No.12665/2020).

(Case No. RC 0502020 S 008 in Crl.OP(MD)No.12666/2020)

.... 1<sup>st</sup> Respondent/Complainant  
in Both Petitions

**(\*)2.The Director General of Police,  
Mylapore, Chennai-4.**

... 2<sup>nd</sup> Respondent  
in Both Petitions

**(\*)R2 Suo motu impleaded as per order of this Court dated 10.11.2020  
in Crl.OP(MD)Nos.12665/2020 and 12666/2020 by SMSJ.**

For Petitioner : Mr.G.Rajasekar,Advocate.  
In Both Petitions

For R1 : Mrs.Victoria Gowri  
Assistant Solicitor General of India  
In Both Petitions

For R2 : Mr.K.Suyambu Linga Bharathi  
Government Advocate(Criminal Side)  
In Both Petitions

For Intervener : Mr.V.Rajiv Rufus, Advocate  
In Both Petitions

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

COMMON PRAYER :-

For a Bail in Connection with the Case in Nos.RC 050 2020  
S 0009 and RC 050 2020 S 0008 respectively on the file of Additional  
Superintendent of Police, CBI SC II.

COMMON ORDER : The Court made the following order :-

The petitioner is arrayed as Accused No.1. He surrendered before  
the CBCID Police at Tuticorin on 02.07.2020 for the offences  
punishable under sections 342, 302, 201 r/w 109 of IPC, in Case  
Nos.RC 050 2020 S 0008 and RC 050 2020 S 0009 respectively. The  
petitions on hand are filed seeking bail.



2.The petitioner is the first accused and was holding the post of Inspector of Police and now under suspension. The case was registered on account of the custodial death of two persons namely Mr.P.Jeyaraj and Mr.J.Benniks.

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3.The learned counsel for the petitioner made a submission that the petitioner underwent surgery during the year 2013 and he is suffering from severe back pain. The petitioner/A1 fully co-operated for the investigation and he was holding the post of Inspector of Police and therefore, he may be released on bail and he is ready to abide by any conditions if any imposed by this Court. It is contended that the petitioner / A1 was not connected with the offence and he was the Station House Officer and his involvement was not established even during the investigation. Thus, the petitioner/A1 is having a fair chance of success in the criminal trial and there is no *prima facie* case against the petitioner and thus, the petitioner is to be released on bail.

4.The learned Assistant Solicitor General of India appearing on behalf of the respondent CBI strenuously objected the contentions raised on behalf of the petitioner by stating that it is a case of the custodial death and two deceased persons were tortured in an inhuman manner and they died subsequently. No doubt, the final report is already filed. However, the larger investigations to cull out the truth surrounded by the incidents are under investigations. In view of the fact that the death of two business men in that locality created an impact in the society at large and more specifically at the national level. The case was initially handed over to the CBI by the Government and the CBI is in the progress of investigation in order to cull out the involvement of the other police officials and other persons. Though the final report has been filed before the Competent Court of law, investigations are still in progress. The learned counsel for the respondent, at the request of this Court, obtained instructions from the officials of the CBI regarding co-operation extended by the petitioner during investigation. On instructions, the learned counsel for the respondent reiterated that the petitioner/ A1 had not co-operated for the fair investigation. He created lot of obstructions during the course of investigation. He made an attempt to flee at the initial stage. However, the said point is objected by the learned counsel for the petitioner by stating that the petitioner himself surrendered. These facts are disputed and this Court need not offer any findings in this regard and the said factors are to be tried before the Competent Court of law. The learned Additional Solicitor General appearing on behalf of the respondent further contended that in the event of enlarging this petitioner on bail, the same would create many issues in the matter of continuing the investigation on the larger involvement of the police officials and therefore, the petition is to be dismissed.



5.The learned counsel for the victim / defacto complainant contended that he has already filed a petition to intervene. Two deceaseds were brutally attacked and tortured throughout the night in the custody of the police and more specifically in Sathankulam police station. The some other officials are the eye witnesses in the case and they are to be protected by this Court. The petitioner/A1 was holding the post of Inspector of Police and he is an influential person. The witnesses were the subordinates working under the petitioner/A1. Thus, there is a possibility of influencing the witnesses, who all are now working in the subordinate cadre in the police department.

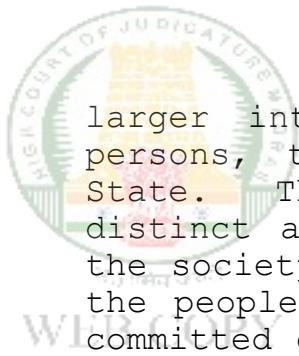
6.This Court is of the considered opinion that the paramount consideration for grant of bail to an accused is that whether there is any *prima facie* case, gravity of the charges, severity of the punishment contemplated, likelihood of absconding or fleeing from justice, character and behavior, of-course, the status and the likelihood of repeating the offence. All these criteria are to be assessed with reference to the complex facts and circumstances narrated by the parties to the bail petition. In the present case, undoubtedly, the gravity of the charges are grievous in nature. Danger of absconding or fleeing is concerned, this Court is of the opinion that there is a controversy between the parties.

7.The learned Assistant Solicitor General for the respondent states that the petitioner had not co-operated for the investigation and he was obstructing the investigation.

8.The learned counsel for the intervenor made a submission that initially, he was absconding and when the police reached nearby him, then, he surrendered. As far as the character and behavior of the petitioner/A1 is concerned, it is brought to the notice of this Court that already, yet another case against the petitioner /A1 for the offence under Section 307 is pending investigation in Crime No.4 of 2019.

9.This apart, some of the witnesses have stated that the petitioner/accused was also staying in the police station at the time of attacking the deceased persons. However, these factors cannot be assessed in the bail petition and to be adjudicated through the documents and witnesses at the time of trial. None of these facts and circumstances are the consideration to be extended. However, this Court is of the opinion that *prima facie* case has been established against the petitioner / A1 and certain conducts now raised before this Court reveals that there is a possibility of influencing the other police officials in the event of releasing the petitioner on bail.

10. Beyond the factual aspects portrayed, societal impacts in such kind of cases are also to be considered by the Courts in

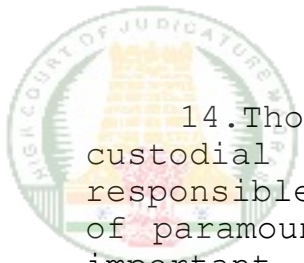


larger interests of public. Crimes are committed against the persons, though such crimes are also considered as against the State. The velocity and the impacts caused in the society are distinct and different. Certain crimes are considered as against the society at large, when the larger interests and the feelings of the people in general are affected. In other words, if any crime committed creates a larger impact in the minds of the common man in general, then, such crimes are to be dealt properly, considering the various factors and the negative implications, if any, caused. In such circumstances, granting of bail, if communicates a wrong message or creates a bad precedent, then, the genuine feelings of the larger sector of the people are also to be taken into account by the Courts, as the Courts are bound to provide justice to the Society at large. The concept of justice and its wider implications are also to be borne in mind while dealing with such cases.

11. Undoubtedly, bail is a right and denial is an exception. However, right of bail is to be considered inconsonance with the principles established and considering the concrete facts and circumstances coupled with the general Principles of Law. While considering those principles established by the Courts as well as the impacts in the society coupled with the fact and circumstances, if there is any likelihood of causing prejudice in either way, either to the witnesses in general or to the society at large. Such heinous crime committed are to be dealt with cautions and there cannot be any leniency or misplaced sympathy, which would affect the sentiments of the people at large, which is otherwise not in consonance with the constitutional Philosophy and Ethos.

12. Investigations are being conducted in a larger perspective to cull out the involvement of various other police officials and other Government officials working in other departments are in progress. Widening of investigation in these aspects are imminent to march towards the eradication of the evil elements of custodial deaths. Custodial death are not only inhuman but also against the humanity at large. Any progressive and proud Nation in this globe adopting the ideology of democracy is expected to be sensitive in eradication of custodial death completely, as the custodial deaths are barbaric.

13. Our proud and great Nation is undoubtedly and fastly marching towards the vibrant democracy and we are in the Era of faster development in various fields. A civilized society can be created only, if there is a change in the minds set of people and the consistent developments in creating such mind sets amongst the citizen. There cannot be any second opinion, as the custodial death are to be wiped out completely and, if any complaints are received, investigation are to be conducted in a speedy manner and stringent actions are to be initiated both at departmental level and by prosecuting authorities.



14. Though there are procedures to be followed in the cases of custodial deaths, the mandate is not honoured by the authorities responsible and accountable. Prevention of custodial death is also of paramount importance. Curing being an aspect prevention is more important. Thus, periodical observations, monitoring are imminent and necessary to initiate corrective measure and to implement various reforms in the police departments and amongst the public servants, who are all the law enforcing authorities.

15. Government of the day cannot deny the fact that many numbers of complaints are being received from the affected persons, which are all in public domain regarding the public services to be provided by not only the police officials, but also by other public officials from various Departments. Respecting a common man in a public office is to be primarily ensured by the Government at all levels. Thereafter, services to be provided must be done by following the procedures contemplated. The common man, who are all approaching the Police Stations or the Public Officers are to be treated decently and all required information must be made available to assist such persons. The concept of efficient public administration is contemplated in the Constitution of India. Efficient public administration being a mandate under the Constitution, any Government of the day is expected to strive hard towards achieving the constitutional goals.

16. The Government servants including police officials are paid a very decent salary from the taxpayers money. Police officials as well as the public servants are enjoying a special status in the society. More specifically, the Police Officials are vested with powers under various statute to detain and to initiate actions. Thus, utmost caution and good temperament is highly warranted. Integrity and honesty though virtues, it is mandatory as far as the uniformed services are concerned. Treating a common man decently and fairly in Police Stations is a basic requirement, which is to be ensured by the Department Higher Officials. Interestingly, the Police Department displayed in many places across the State that Police is friend of the people. Of course, they are expected to be so. However, the fact prevailing is a controversy. In many areas, large number of people are still afraid even to enter into the Police Stations and people are having apprehension in their minds that such police officials may turnaround if they give a complaint and register cases against them. The fact regarding registration of false cases cannot be denied by the Police Department, in general. Many allegations of registration of false cases are brought to the notices of the Court also. Thus, aggressive monitoring and functioning and behavioral aspect of the police official are to be checked. In this regard, many reforms are required to be introduced and implemented. The responsibility and accountability of the police officials are to be ensured. Though the head of the Department namely Director General of Police issued many circulars for the enforcement of such circulars are not seriously



monitored or appropriate actions are taken against such erring police officials. This created a wrong precedents in the minds of the police officials, who are all working at the ground level. Issuing guidelines and circulars are one aspect of the matter. Implementation of such circular in letter and spirit is of paramount importance to enforce the circulars for the welfare of the people at large.

17. Registering of false cases in police station are to be completely erased. Serious actions are to be initiated against such erring officials by conducting inspections and enquiry. Intelligence Wing of the police department is to be pressed into service for the purpose of tracing out registration of false cases in Police Stations. Of course, vigilance and Anti Corruption Department should also work hand in hand with Intelligence Wing. The black mark affixed on the Police Department by the common man in these aspects are to be wiped out in order to uphold the Rule of Law and to protect the Fundamental Rights of the citizen of this great Nation. A transparency in dealing with such cases are also mandatory to develop confidence in the minds of common man. But, many such cases are neither traced out nor actions were initiated. A trend prevailing in this regard require a drastic change to protect the "Human Rights" and the "Constitutional Rights".

18. The case on hand is sensitized due to wider media coverage. Unfortunately, many such custodial deaths are not even brought into the limelight and those families are still facing untold agonies. Thus, dealing one case in wider manner is insufficient and the investigation in this regard are to be widened and suggestions for reformations are also to be offered by the authorities concerned and urgent actions are required to initiate corrective measures. The State of Tamil Nadu is reporting many number of custodial deaths in comparison with many other States across the country. It is a serious issue to be considered by the Director General of Police and urgent measures are required. Granting bail or declining bail in such sensitized cases would not provide any solution for the problem. The measures to be taken, corrections to be made, reformations and other wider implications are all of paramount importance to ensure, so as to protect the rights of common man.

19. In this view of the matter, the Director General of Police, Mylapore, Chennai - 4 is *suo motu* impleaded as respondent in this petition so as to issue directions to initiate actions.

20. The learned Government Advocate (Criminal Side) takes notice on behalf of the impleaded Respondent and contended that adequate steps are taken by the Police Department to improve the functioning of the Police Stations.

21. The learned Government Advocate (Criminal Side) has not  
<https://hcds.sueroad.gov.in/services> points that the common man approaching the police



station must be treated decently and properly and necessary assistance are to be provided.

22. In this regard the learned Government Advocate solicited the attentions of this Court regarding various circulars and instructions issued by the Director General of Police.

23. This Court is aware of the fact that many such Circulars and instructions are issued to the subordinate Police Officials to uphold the Rule of Law and to protect the rights of the citizen, in general. However, those Circulars are not being followed by the Officials concerned largely. It is an unfortunate situation, where many of the Circulars are unknown to those officials or not made available in Police Stations. Even if available not within the knowledge of such police officials. Those circulars must be implemented in its letter and spirit. In this regard, consolidated instructions are necessary enabling the Police Stations to maintain the same in the stock file and refer whenever circumstances has arisen.

24. In this regard, this Court is inclined to issue the following directions to the Director General of Police, Mylapore, Chennai - 4:-

(i) The Director General of Police/Second Respondent is directed to issue consolidated Instructions / Circulars regarding the rights of common man approaching the Police Stations and Police Officials and the services to be provided by the officials by treating the citizen fairly and decently.

(ii) The Director General of Police / Second Respondent is directed to ensure that C.C.T.V. Cameras are installed in all the Police Stations and C.C.T.V Cameras already installed are in working conditions all the time. The entire premises of the Police Stations are to be covered under C.C.T.V Camera.

(iii) The Director General of Police / Second Respondent is directed to ensure that the rights of the complainants approaching the Police Stations and the Police Officials are boldly and legibly displayed in front of the Police Stations across the State of Tamil Nadu, both in English and Tamil languages.

(iv) The Director General of Police / Second Respondent is directed to ensure the proper maintenance of C.C.T.V Cameras in all the Police Stations across the State of Tamil Nadu and repairs, if any noticed, must be rectified by the Station House Officer, within a period of three days.

(v) The Director General of Police / Second Respondent is directed to ensure that C.C.T.V storages must be sent to the higher  
<https://hccservicescourts.gov.in/services/> a stipulated period and the said storages are to be



preserved for the period to be stipulated by the Director General of Police in the consolidated instructions.

(vi) The Director General of Police / Second Respondent is directed to state in the Circular / Consolidated Instructions that violations of the instructions / guidelines by any officials must be viewed seriously and appropriate disciplinary actions will be initiated under the Discipline and Appeal Rules.

25.As far as the petitions on hand is concerned, it is not preferable to enlarge the petitioners on bail at this juncture and consequently, the bail petitions stand dismissed. However, the directions are issued to the Director General of Police, as stated above.

sd/-  
10/11/2020

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/ /2020  
Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

TO

- 1.THE ADDITIONAL SUPERINTENDENT OF POLICE,  
CBI, SC II, NEW DELHI.
- 2.THE DIRECTOR GENERAL OF POLICE,  
MYLAPORE, CHENNAI-4.
- 3.THE SUPERINTENDENT OF POLICE,  
CENTRAL PRISON, MADURAI
- 4.THE SPECIAL PUBLIC PROSECUTOR FOR CBI CASES,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 5.THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER  
IN  
CRL OP (MD).Nos.12665 & 12666 of 2020  
Date :10/11/2020

RMI/IAS  
PK/AKM/SAR-IV/23.11.2020 : 8P/6C