

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.2101 of 2021

1. Velusamy @ Selladurai
2. Balasubramani

... Petitioners

Vs.

The State Rep. by
The Inspector of Police,
Virudhachalam,
Crime No.2154 of 2020

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.2154 of 2020 pending investigation on the file of the Respondent.

For Petitioners : Mr. A. Joseph Jawahar

For Respondent : Mrs.M. Prabhavathi,
APP

O R D E R

(The case has been heard through video conference)

The Petitioners, who were arrested and remanded to judicial custody on 20.11.2020 for the offence punishable under Section 302 of IPC in Crime No.2154 of 2020, seeks bail.

2. The case of the prosecution is that the deceased is the sister of the defacto complainant, present complaint has been given stating that, the deceased has been found murdered with stab injuries, and a crime was registered against unknown persons. After investigation, it was found that A1, who is a paramour of the deceased along with A2, who is the friend of A1, said to have committed murder.

3. The counsel for the petitioners would submit that the petitioners have been falsely implicated in this case. He would further submit that the petitioners were arrested and remanded to judicial custody on 20.11.2020. Despite the lapse of statutory period of 90 days judicial custody, in the case, the respondent so far not filed the final report. In the said circumstances, the petitioners are entitled for statutory bail under Section 167(2) Cr.P.C. Hence, he prays for grant of bail.

4.The learned Additional Public Prosecutor would submit that the respondent police is not in a position to file final report within 90 days, now the final report is ready and she oppose to grant bail to the petitioners.

5. The case has been registered under Section 302 of IPC. The petitioners are in judicial custody for more than 90 days. Despite the lapse of statutory period, the respondent has not filed the final report and thereby, the petitioners are entitled for statutory bail.

6. Taking into consideration of the facts and circumstance of the case and the submissions made by the learned counsel and the fact that the respondent has not filed the final report despite the lapse of statutory period, this Court is left with no other option except to grant bail. Hence, 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 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.I, Virudhachalam, 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 shall report before the respondent police daily at 10.30 a.m., until further orders;

(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.

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-

22/02/2021

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.I, VIRUDHACHALAM

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
VIRUDHACHALAM.

5 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

+2 CC to M/S.A.JOSEPH JAWAHAR Advocate on payment of necessary charges Sr.No.2059

CRL OP.2101/2021

Date :22/02/2021

RVR 23/02/2021

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