

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.2288 of 2021

1.Arunkumar @ Arun
2.Vijayakumar @ Appu
3.Vijay @ Jocky

... Petitioners

Vs.

State rep by
The Inspector of Police,
P-6, Kodungaiyur Police Station,
Chennai.
Cr.No.1037 of 2020

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in SC.No.129 of 2020 in Cr. No.1037 of 2020 on the file of the XVI Additional Sessions Judge at Chennai, pending trial.

For Petitioners: Mr.B.Shankar

For Respondent : Mrs.M. Prabhavathi,
APP

ORDER

(The case has been heard through video conference)

The Petitioners, who were arrested and remanded to judicial custody on 10.08.2020 for the offence punishable under Sections 302 in Crime No.1037 of 2020, seek bail.

2. The case of the prosecution is that due to previous enmity, on 06.08.2020, under the guise of conducting mediation, all the petitioners took the deceased and attacked him with knife and committed murder. Hence the complaint came to be registered.

3. The learned counsel for the petitioners would submit that the petitioners have been falsely implicated in this case and they have not committed any offence as alleged by the prosecution. They are in jail from 10.08.2020. Hence, he prays to grant bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that it is a cruel murder. All the

petitioners attacked the deceased with knife and smashed his head due to previous enmity. She would further submits that the first petitioner/A1 is a notorious rowdy element. He is having 9 previous cases and earlier, he was detained under Goondas Act twice. So far as the second and third petitioners(A2 & a3) are concerned, they are having one previous case. If the petitioners are released on bail, they will definitely commit another crime, similar in nature. She would further submit that now final report has been filed and the matter is pending in S.C.No.129 of 2020 on the file of the XVI Additional Sessions Court, for framing charges. Hence, she vehemently opposed to grant bail to the petitioners.

5. Considering the above facts and circumstances of the case, and the fact that the first petitioner is a notorious rowdy element and having 9 previous cases and he was detained under Goondas Act twice, this Court is not inclined to grant bail to the first petitioner and this petition is **dismissed as against the first petitioner, namely, Arunkumar @ Arun.**

6. However, so far as **the petitioners 2 and 3, namely, Vijayakumar @ Appu and Vijay @ Jocky**, are concerned, considering the fact that now investigation is over and they are in jail for more than 6 months, this Court is inclined to grant bail to the petitioners 2 and 3 subject to the following conditions:-

(a) Accordingly, the **petitioners 2 and 3 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 XVI Additional Sessions Judge, Chennai, 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 trial Court, daily at 10.30 a.m., on all working days 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. 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/-
04/03/2021

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 XVI ADDITIONAL SESSIONS JUDGE,
CHENNAI.

2 THE INSPECTOR OF POLICE,
P-6, KODUNGAIYUR POLICE STATION,
CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

सत्यमेव जयते

CC to M/S.B.SHANKAR Advocate on payment of necessary charges

WEB COPY

CRL OP.2288/2021

Date :04/03/2021

MN-05/03/2021