

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.3218 of 2021

1. Selvaraj
2. Settu

... Petitioners

Vs.

The State Rep. by
The Sub-Inspector of Police,
K.V.Kuppam Police Station,
Vellore District.
(Crime No. 4 of 2021) ... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No. 4 of 2021 , pending investigation on the file of the Respondent.

For Petitioner : Mr. S.P.Arthi

For Respondent : Mrs.M. Prabhavathi,
APP

O R D E R

(The case has been heard through video conference)

Petitioners, who were arrested and remanded to judicial custody on 08.01.2021 for the offence punishable under Section 302 IPC in Crime No.4 of 2021 , seeks bail.

2. Totally there are 2 accused. The case of the prosecution is that the deceased, namely, Sekar, was found missing from the year 2015., for which complaint was given on 07.01.2021 by the wife of the deceased. Thereafter, on 08.01.2021, both the petitioners said to have given extra judicial confession stating that since the deceased has given sexual torture to the wife of first petitioner/A1, hence, they have murdered the deceased and threw his body into a dilapidated old well. Hence, a case has been registered against them.

3. The learned counsel for the petitioner would submit that the deceased was found missing from the year 2015 and absolutely, no complaint has been given till 06.01.2021 and a complaint was given only on 07.01.2021 and the police has arrested the petitioners on suspicion on 08.01.2021 and created a concocted story as if the petitioners have given an extra judicial confession admitting their guilt. Hence, he seeks bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that initially, a crime was registered for "man missing". Thereafter, the petitioners have voluntarily appeared before the Village Administrative Officer and given extra judicial confession and based on that, they were arrested. Now, investigation is pending. Hence, she opposed to grant bail to the petitioner.

5. I have considered the submissions made on either side and perused the materials available on records carefully.

6. It is a case of circumstantial evidence. Admittedly, the deceased was found missing from the year 2015, for which, a complaint for man missing was registered only on 07.01.2021 and thereafter, based on the extra judicial confession given by the petitioners, they have been arrested.

7. Considering the said facts and circumstances of the case and also considering the period of incarceration suffered by the petitioners, 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, Katpadi, Vellore District 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

(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/-
18/02/2021

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,
KATPADI, VELLORE DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL JAIL, VELLORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUB INSPECTOR OF POLICE,
K.V.KUPPAM POLICE STATION,
VELLORE DISTRICT.

CC to M/S.S.P.ARTHI Advocate on payment of necessary charges

CRL OP.3218/2021

Date :18/02/2021

MK:19/02/2021