

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.4017 of 2021

1. Jithin Joshua
2. Jithin Mohan
3. Rahul K. Thangachan
4. Harshad Ashraf
5. Bibin

... Petitioners

Vs.

State rep by its
The Inspector of Police,
B7, Vellavedu Police Station,
Vellavedu, Thiruvallur District.
Cr.No.2685 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.2685 of 2020 on the file of the respondent police.

For Petitioners : Mr. A. Selvendran

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 28.12.2020 for the offence punishable under Sections 147, 148, 294(b), and 302 of IPC in Crime No.2685 of 2020, seek bail.

2. Totally, there are 5 accused and the petitioners are A1 to A5. The case of the prosecution is that all the petitioners are final year students in B.SC., in Nautical Science, in International Maritime Academy. The deceased in this case was a final year student studying in B.Tech in Marine Engineering in the same college. There was a wordy quarrel between two groups of students in the hostel on the eve of Christmas. Due to the same, on 25.12.2020, on the Christmas day, there was group clash between two groups and during the clash, the petitioners joined together and attacked the deceased with bottles, wooden log and other weapons and caused his death. Subsequently, all the petitioners are said to have given extra judicial confession before some of the villagers and based on the same, the petitioners were arrested and remanded to Judicial Custody on 28.12.2020, and the complaint came to be registered. Seeking bail the petition.

3. The learned counsel for the petitioner would submit that the petitioners have not committed any offence as alleged by the prosecution. There is no eye-witness to the occurrence. The respondent police has arrested the petitioners only on suspicion and created a story as if the petitioners had given extra judicial confession. They are in jail for more than 2 months. Hence, prays for grant of bail.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioners are final year students and staying in the College Hostel. During clash between the students, all the petitioners attacked the deceased with bottles and caused his death. Now, the petitioners themselves have given extra judicial confession before the Villagers. Based on that the petitioners were arrested. She would further submit that now investigation is almost completed and awaiting for post-mortem report. Hence, she opposed to grant bail to the petitioner.

5. Taking into consideration of the facts and circumstance of the case, and the fact that petitioners have been implicated in this case based on the alleged extra judicial confession, now investigation is almost completed 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-2, Poonamallee, 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

(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/-

01/03/2021

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 JUDICIAL MAGISTRATE,
NO.II, POONAMALLEE

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
B7, VELLAVEDU POLICE STATION,
VELLAVEDU, THIRUVALLUR DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI

CC to M/S. A.SELVENDRAN Advocate on payment of necessary
charges Sr.2542

CRL OP.4017/2021

Date :01/03/2021

RVR 02/03/2021