

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.5339 of 2021

1. Govindhan ... Petitioners
2. Gurudevan
3. Babu

Vs.

State Rep. by ... Respondent
The Sub-Inspector of Police,
Avalupettai Police Station,
Villupuram District.
(Crime No.68 of 2021)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail pending investigation in Crime No.68 of 2021 on the file of the respondent police.

For Petitioner : Mr. V.R.Appaswamee

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 01.03.2021 for the offence punishable under Section 306 of IPC in Crime No.68 of 2021, seeks bail.

2. Totally, there are 5 accused and the petitioners are arrayed as A1 to A3. The case of the prosecution is that the deceased and first petitioner/A1 are friends. On 18.02.2021, the deceased travelled in the car belongs to A1, and thereafter, it was found that some of the gold jewels, kept in the dash board by A1, were missing. Suspecting that, the deceased might have stolen the jewells, A1 and other accused, questioned the deceased. Thereafter, on 19.02.2021, all the accused compelled the deceased to accept the theft and they have forcibly taken a sum of Rs.12,500/- , mobile phone and the medical certificate from the defacto complainant and also abused him in filthy language and told him to go and die. Thereafter, the deceased committed suicide by consuming poison. Hence, the petitioners were arrested on 01.03.2021. Now, seeking bail, the present petition has been filed.

3. The learned counsel for the petitioners would submit that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case due to previous enmity. The first petitioner and the deceased are close friends. Admittedly, on 18.02.2021, when both of them were travelling in the car, belongs to A1/first petitioner, some jewels kept in the dash board of the car, were found missing. On the next day, i.e., 19.02.2021, the first petitioner/A1 along with other accused enquired the deceased about the missing of jewells and thereafter, on 23.02.2021, the deceased committed suicide by consuming poison. The petitioners have not abetted the deceased to commit suicide and they are in jail from 01.03.2021. Therefore, he prays to grant bail to the petitioners.

4. The learned Additional Public Prosecutor vehemently opposed stating that the deceased left the suicide note, wherein, he squarely blamed all the accused on the ground that all of them branded the deceased as thief and also taken money, mobile phone and medical records and abused him and they caused mental agony to the deceased and thereby, abetted him to commit suicide. She would further submit that investigation is still pending.

5. I have considered the rival submissions and perused the materials available on records, including the statement of the witnesses and confession statements of the accused persons.

6. From the perusal of the records, it could be seen that both A1 and the deceased in a drunken mood travelled in the car, where, A1 kept some jewels in the dash board, which was subsequently, found missing. Hence, all the accused, who are friends of A1, question the deceased regarding the missing of jewels and there was wordy quarrel. It is also stated that all the accused had taken money, mobile phone and some records from the de-facto complainant and thereafter, he committed suicide.

7. Considering the above 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, Gingee 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, on release from the prison, 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.

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

-sd/-
23/03/2021

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,
GINGEE.

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
AVALUPETTAI POLICE STATION,
VILLUPURAM DISTRICT.

5 THE OFFICER INCHARGE
SUB JAIL, GINGEE.

+1 CC to M/S.V.R.APPASWAMEE Advocate on payment of necessary charges SR.NO.3867

CRL OP.5339/2021

Date :23/03/2021