

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.05.2021

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Cr1.O.P.No.8567 of 2021

1. Bharathiraja
2. Prathiviraja

... Petitioners

Vs.

State rep by
The Inspector of Police,
Padalam Police Station,
Chengalpattu District.
(Crime No.75 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioners on bail in Crime No.75 of 2021 on the file of the respondent police.

For Petitioners : Mr.G.Babu Ganesh

For Respondent : Mr.A.Gopinath
Government Advocate (Cr1 side)

ORDER

The 1st petitioner who was arrested on 01.04.2021 and remanded to judicial custody and the 2nd is in judicial custody from 29.03.2021 for the offences under Sections 147, 341, 294(b), 324, 307 @ 302 IPC in Cr.No.75 of 2021 on the file of the respondent police, seek bail.

2. The case of the prosecution is that due to quarrel which took place in the Wine Shop on 20.03.2021, on 21.03.2021 at about 08.30 p.m, the petitioners along with other accused persons had unlawful assembly and said to have attacked the deceased indiscriminately. As a result of which, he died.

3. The learned counsel for the petitioner submit that the petitioners are no way connected with the alleged offence and they have been falsely implicated in this case and the 1st petitioner has been in jail from 01.04.2021 and the 2nd petitioner has been in jail from 29.03.2021. He further submits that co-accused had already been granted bail by this Court in Cr1.O.P.No.9117 of 2021 dated 13.03.2021. Therefore, he prays to grant bail to the petitioners.

4. The learned Government Advocate (Crl.Side) vehemently opposed the grant of bail by stating that the Lab report is awaited and the investigation is still pending.

5. Considering the submissions made by the learned counsel for the petitioners that the co-accused had already been granted bail by this Court and the period of incarceration suffered by the petitioners and also the present COVID-19 pandemic situation, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) each of the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the Central Prison, Puzhal, in which the petitioners are confined and on such execution the petitioners shall be released from prison;

(b) (i) After the lockdown restrictions are raised and normal time is restored, the restrictions are totally raised, each of the petitioner shall execute a bond for Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum amount each to the satisfaction of the learned Judicial Magistrate No.1, Chengalpattu. The same shall be executed within a period of one month from the date the lockdown restrictions are raised.

(ii) If for any reason, the petitioners are not able to execute bond within the specified time, the petitioners shall approach this Court and file a petition seeking extension of time for the same.

(iii) While executing the bond, the sureties shall furnish proof of identity and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate shall obtain a copy of their Aadhar card or Voter ID or Driving license or Bank pass Book to ensure their identity to the satisfaction of the learned Judicial Magistrate No.1, Chengalpattu.

© After the lockdown restrictions are raised, normal time is restored, the petitioners shall abide by the following conditions imposed by this Court. The petitioners shall not interfere, influence or cause hindrance to the pending investigation.

(d) the petitioners shall report before the respondent police daily at 10.30 a.m., until further orders.

(e) the petitioners shall not influence, threaten or coerce the evidence or witness either during investigation or trial;

(f) the petitioners shall not abscond either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned 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]; and;

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
26/05/2021

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,
CHENGALPATTU.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
PADALAM POLICE STATION,
CHENGALPATTU DISTRICT

CC to M/S.G.BABU GANESH Advocate on payment of necessary charges

CRL OP.8567/2021

Date :26/05/2021