

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.06.2021

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.9651 of 2021

1. Monish
2. Micheal Raj

...Petitioners

-Vs-

The State Rep. By
The Inspector of Police,
Malayampalayam Police Station,
Erode District.
Crime No.98 of 2021

....Respondent

Prayer: Criminal Original petition filed under Section 439 of Cr.PC to enlarge the petitioners on bail in in crime no.98 of 2021 on the file of the respondent police.

For Petitioners : Mr.C.S.Saravanan

For Respondent : Mr.E.Raj Thilak
Government Advocate
(Criminal Side)

ORDER

The petitioners, who were arrested and remanded to judicial custody on 01.05.2021 for the offence punishable under Sections 302 of IPC in Crime No.98 of 2021 on the file of the respondent police, seek bail.

2. The case of the prosecution is that the defacto complainant is a brother of the victim/deceased in this case. The defacto complainant who has given complaint on 30.04.2021 before the Police stating that he is residing at Tiruppur with his mother whereas his brother Ganesh, aged about 19 years married a girl due to love affairs and he joined in A1's pig farm and he was working in that place with his wife. On 29.04.2021, the defacto complainant received a phone call from his brother's phone. The person who spoke with him identified him as Sathyamoorthy(A1) and the deceased had been working in his farm for the last 17 days. During his employment, the deceased had stolen ¾ sovereign of Gold ear ring and a cell phone from his mother's actual possession. On knowing this fact he secured his brother Ganesh and tied him with ropes and informing this fact he demanded the defacto complainant to entrust the above gold ear ring, cell phone and Rs.6,000/- which was given to him as advance wage. Thereafter the defacto complainant informed this fact to his

brother's wife. She confessed to him that the above said articles were stolen by her and she pledged the same in Ambal finance at Tiruppur in her name. On knowing this fact, the defacto complainant and his mother went to Ambal finance and recovered the same after paying proper charges. Thereafter, the defacto complainant, his mother, his another brother Dinesh and one, Jayanthi went to A1's farm on two bikes and they saw A1 in his farm. At the same time, they saw Ganesh who was tied in a neem tree and he was surrounded by all the accused persons and the defacto complainant found multiple injuries over the victim's body. On their request, the accused persons released the victim after receiving the stolen articles and subsequently the defacto complainant took the victim along with them and on the way to Tiruppur, the victim was vomiting and immediately 108 ambulance was called. However, he died. Hence, the complaint.

3. The learned counsel for the petitioners submitted that the petitioners are innocent and have been falsely implicated in this case. He further submitted that they are in judicial custody since 01.05.2021.

4. The learned Government Advocate (Crl.Side) would submit that as far as these petitioners are concerned they have attacked with hands, and A3 and A7 were released on bail by this Court by order dated 19.05.2021 in Crl.OP.No.9354 of 2021. However, he opposed the bail petition on the ground that the investigation is still pending.

5. Considering the period of incarceration and also the present COVID-19 pandemic situation, this Court is inclined to grant bail to the petitioners subject to the following conditions:-

(a) the petitioners shall separately execute their own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each before the Superintendent of the concerned prison

(b) thereafter, the petitioners shall separately execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned Judicial Magistrate, Kodumudi within a period of 15 days from the date of lifting of lockdown and commencement of regular functioning of Court below, failing which the bail granted by this Court shall stand dismissed automatically;

(c) 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;

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

(e) the petitioners shall not commit any offences of similar nature

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

(g) the petitioners shall not tamper with evidence or witness either during investigation or trial

(h) 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]**.

(i) if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

09/06/2021

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 VACATION SESSIONS JUDGE,
ERODE.

2 THE JUDICIAL MAGISTRATE,
KODUMUDI.

3 THE CHIEF JUDICIAL MAGISTRATE
ERIDE, [FOR INFORMATION]

4 THE INSPECTOR OF POLICE
MALAYAMPALAYAM POLICE STATION,
ERODE DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.C.S.SARAVANAN Advocate on payment of necessary charges

CRL OP.9651/2021

Date :09/06/2021

TA-11/06/2021

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