

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

CrI.O.P.No.19853 of 2020

1. Krishnan
2. Ponnuvel

... Petitioners

Vs.

The State Rep. by
The Inspector of Police,
Deevattipatty Police Station,
Salem.
(Crime No.698 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of their arrest in Crime No.698 of 2020 pending investigation on the file of the Respondent.

For Petitioners : Mr.R.Singaravelan, Senior Advocate
for Mr.I.Saddam Hussain

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioners were arrayed as A1 and A4. They have been implicated for the offence punishable under Sections 147, 148, 302 of I.P.C. and subsequently it was altered to 147, 148, 447, 294(b), 352, 506(ii) and 302 I.P.C. in Crime No.698 of 2020 and now they have filed this petition seeking for anticipatory bail.

2. The case of prosecution is that the deceased was 55 years old. The deceased family and petitioners family are neighbours, having agricultural lands in the village and there was a long standing dispute between them in respect of water channel and pathway. On the date of occurrence, earlier, the accused family have blocked the water channel, thereafter, the deceased family also blocked the pathway and hence, there is a wordy quarrel between the parties. Subsequently, when the deceased, age old lady, aged about 55 years, was walking along the pathway, A2 had pushed her down and the petitioners along with other accused said to have attacked her with

hands and legs. Immediately, the deceased was taken to hospital, wherein she was declared dead. Hence, a criminal case was registered against the petitioners. A2, A3 and A5 were arrested and they were remanded to judicial custody.

3. The learned counsel appearing for the petitioners submitted that it is a civil dispute and the occurrence has been taken place due to some land dispute in a wordy quarrel. Even in the F.I.R., it is stated that only A2 has pushed the deceased down and the petitioners said to have attacked the deceased with hands. In the post-mortem certificate, it was mentioned that there was a contusion in her head and there is no other external injuries. According to the learned counsel, the other arrested accused were released on bail. The learned counsel would also submit that the 1st petitioner is a father, head of the family, who is aged about 65 years and the 2nd petitioner is son of 1st petitioner. Even as per the F.I.R., it would show that they are only present in the scene of occurrence and no specific overtact against the petitioners.

4. The learned Additional Public Prosecutor would submit that a civil suit is pending between the parties. On the date of occurrence, all the petitioners said to have attacked the deceased with hands and A2 has pushed her down, in which, she has sustained head injury and due to which, she died. He would also submit that the other arrested accused were already released on bail with a condition to stay at Chennai and to report before the North Beach Police Station and they are complying the conditions.

5. Taking into consideration of the fact that, the occurrence has been taken place in a wordy quarrel between the parties, even as per the F.I.R., only A2 has pushed the deceased down, in which she sustained injuries and the petitioners are only said to have attacked the deceased with hands and now the arrested accused are released on bail, this Court is inclined to grant anticipatory bail to the petitioners, subject to the following conditions:

a) Accordingly, the petitioners are ordered to be released on bail, in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Omalur, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties, for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, and on further condition that:

[b] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[c] the petitioners shall stay at Chennai and report before the North Beach Police Station, Chennai daily at 10.00 a.m. until further orders ;

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioners shall not abscond either during investigation or trial;

[f] 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];

[g] 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/-

07/01/2021

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.

सत्यमेव जयते

TO

1 THE JUDICIAL MAGISTRATE,
OMALUR

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
DEEVATTIPATTY POLICE STATION,
SALEM DISTRICT.

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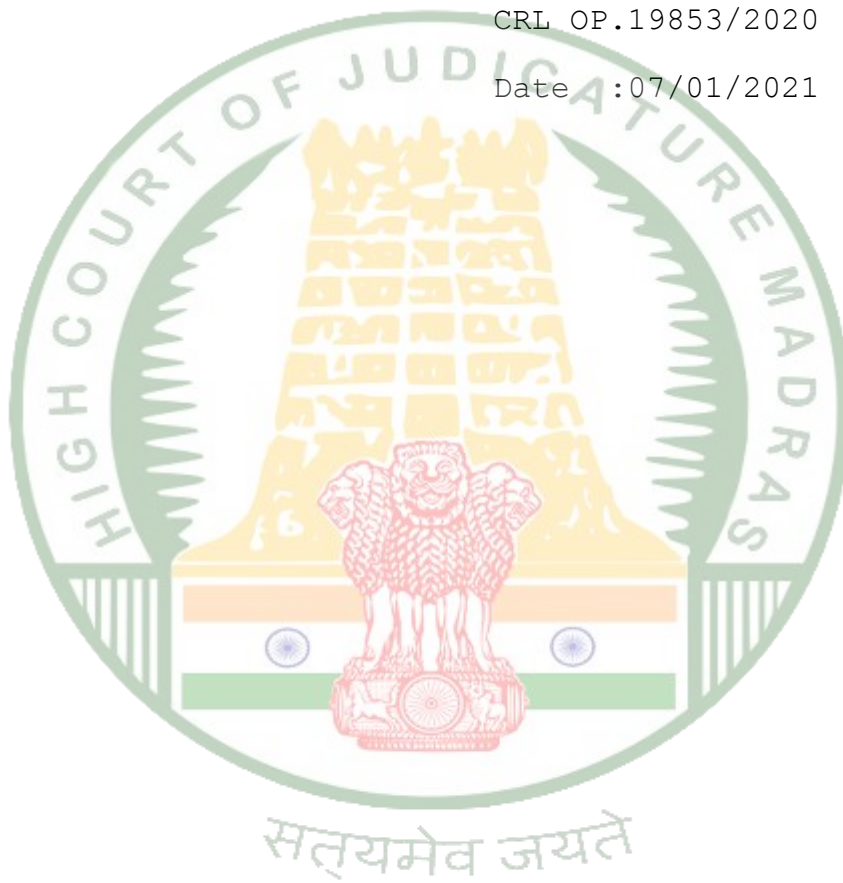
5 THE OFFICER INCHARGE
NORTH BEACH POLICE STATION,
CHENNAI.

+1 CC to M/S.I.SADDAM HUSSAIN Advocate on payment of necessary
charges SR.No.173

CRL OP.19853/2020

Date :07/01/2021

cs 18/01/2021



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