



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.19739 of 2021

1. Kaviyarasan
2. Anjammal

... Petitioners

Vs.

State rep by
The Inspector of Police,
Sirkazhi Police Station,
Sirkazhi.
(Crime No.1237 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.1237 of 2021 on the file of the respondent police.

For Petitioners : Mr.M.K.Subramanian

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER

The petitioners who were arrested on 26.09.2021 and remanded to judicial custody for the offence under Sections 147, 342, 324, 302 IPC, in Crime No.1237 of 2021 on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 04.09.2021, when the deceased had entered into the compound wall of house of the petitioners in order to commit theft, the deceased was caught and tied to an EB post and the petitioners along with other accused persons had attacked the deceased with stick, due to which, the deceased died. Hence, the complaint.

3. The learned counsel for the petitioners submitted that the petitioners are no way connected with the alleged offence and they have been falsely implicated in this case and the petitioners have been in jail from 26.09.2021. He further submitted that the deceased is a habitual offender. Therefore, he prays to grant bail to the petitioners.



4. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that there is no previous case pending against the petitioners. He further submitted that co-accused are absconding. However, he vehemently opposed for grant of bail to the petitioners.

5. Considering the facts and circumstances of the case and also the fact that there is a specific overt act has been attributed against the first petitioner. Therefore, this Court is not inclined to grant bail to the first petitioner. Hence, this Criminal Original Petition is dismissed as against the first petitioner. Considering the period of incarceration suffered by the second petitioner and also there is no specific overt act has been attributed against the second petitioner, this Court is inclined to grant bail to the second petitioner with certain conditions:

6. Accordingly, the second petitioner is ordered to be released on bail on her executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Sirkazhi, and on further condition that:

(a) 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;

(b) the second petitioner shall report before the respondent police, daily at 10.30 a.m. until further orders;

(c) the second petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the second petitioner shall not abscond either during investigation or trial;

(e) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the second petitioner in accordance with law as if the conditions have been imposed and the second petitioner 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;



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

WEB COPY

-sd/-

25/10/2021

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,
SIRKAZHI

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
SIRKAZHI POLICE STATION,
SIRKAZHI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE OFFICE INCHARGE
DISTRICT PRISON,
NAGAPATTINAM

CC to M/S.M.K.SUBRAMANIAN Advocate on payment of necessary charges

CRL OP.19739/2021

Date :25/10/2021

APN 26/10/2021