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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.Nos.21599 and 21760 of 2021

VENKATESAN ... Petitioner in Crl.O.P.No.21599 of 2021
PERIYASAMY ... Petitioner in Crl.O.P.No.21760 of 2021

Vs.

The State rep by
The Inspector of Police
Konganapuram Police Station
Salem District
(Crime No.365 of 2021)

...Respondent in both Crl.O.Ps.

COMMON PRAYER: Criminal Original Petitions have been filed under Section 439 of Cr.P.C praying to enlarge the petitioners on bail pending investigation in Crime No.365 of 2021 on the file of the respondent police.

For Petitioner in Crl.O.P.No.21599 of 2021 : Mr.T.Muruganantham

For Petitioner in Crl.O.P.No.21760 of 2021 :Mr.W.Camyles Gandhi

For Respondent in both Crl.O.Ps. : Mr.N.S.Sugantan
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

In Crl.O.P.No.21599 of 2021, the petitioner who was arrested and remanded to judicial custody on 04.10.2021 for the offences under Sections 174(3) Cr.P.C. altered into Section 302 read with 109 IPC in Crime No.365 of 2021, on the file of the respondent police, seeks bail.

In Crl.O.P.No.21760 of 2021, the petitioner who was arrested and remanded to judicial custody on 05.10.2021 for the offence under Section 174(3) Cr.P.C. altered into Section 302 and 109 IPC in Crime No.365 of 2021, on the file of the respondent police, seeks bail.



2. The case of the prosecution is that the defacto complainant is the Village Administrative Officer. The son of A1 was suffering from Cancer and died in a mysterious circumstances. Hence, the case was initially registered under Section 174 (3) Cr.P.C. based on the complaint lodged by the Village Administrative Officer. During the course of investigation, it came to light that the son of A1 who is aged about 14 years was suffering from Cancer and A1 had spent about Rs.10 lakhs for his treatment. However, the ailment could not be cured. Hence, A1 asked A3 who is running a laboratory to recommend a good Doctor. In turn, A3 introduced A2 stating that he is working in a hospital and he could take his son to his hospital. Accordingly, A1 approached A2 and on seeing the condition of the son of A1, A2 gave certain medicines after which, the deceased died. Hence, the case was altered into Section 302 read with 109 IPC.

3. The learned counsel for the petitioner in CrI.O.P.No.21599 of 2021 would submit that the petitioner is arrayed as A3 and except the confession of the co-accused, there is no other material to connected the petitioner in this case. Even as per the prosecution, the petitioner only introduced A2 who is working in a hospital to give better treatment to the son of A1 since, he was suffering with advanced stage of Cancer. Other than that the petitioner has not committed any offence and that the petitioner has been suffering incarceration for more than 45 days from 04.10.2021. Hence he prays for grant of bail to the petitioner.

4. The learned counsel for the petitioner in CrI.O.P.No.21760 of 2021 would submit that the petitioner is arrayed as A1 and he has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case and that the petitioner has been suffering incarceration for more than 45 days from 05.10.2021. Hence he prays for grant of bail to the petitioner.

5. The learned Government Advocate raised objection stating that all the three accused including the father of the deceased have been arrested and the post mortem report is awaited and that the investigation is almost completed.

6. Considering the facts and circumstance of the case and the fact that the investigation is almost completed and also considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail on their executing separate bonds 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 District Munsif cum Judicial Magistrate, Edappadi, and on further conditions 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;

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(b)the petitioners shall report before the respondent police, every Wednesday at 10.30 a.m. until further orders.

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

(d)the petitioners 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 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;

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

-sd/-

19/11/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, EDAPPADI.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM DISTRICT. [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

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



5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to Mr.W.Camyles Gandhi Advocate on payment of necessary
charges SR.NO.13081

CRL OP.Nos.21599 and 21760/2021

Date :19/11/2021

RW 22/11/2021