



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2021

CORAM:

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

Crl.O.P.No.23291 of 2021

1.Santhosh @ Santhosh Kadhirvel
2. Suguna

... Petitioners

Vs.

The State rep by
The Inspector of Police
Omalur Police Station
Salem District
Crime No.805 of 2021

...Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.805 of 2021 pending on the file of the respondent police.

For Petitioners : Mr.C.Deepak Kumar

For Respondent : Mr.N.S.Suganthan
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 30.10.2021 for the offences under Sections 294(b), 323, 109 and 302 of IPC in Crime No.805 of 2021, on the file of the respondent police, seek bail.

2. The case of the prosecution is that the defacto complainant's husband and the 1st petitioner are having a bangle shop at Omalur Town Bus Stand and there was a previous enmity between them with regard to business. While so, on 29.10.2021 at about 9.15 p.m., there was a wordy quarrel between the petitioners and the defacto complainant's husband during which, the 1st petitioner attacked and strangled the husband of the defacto complainant on the instigation of the 2nd petitioner due to which, the husband of the defacto complainant got fainted and he was taken to hospital where he was declared as brought dead. Hence, the complaint.



3.The learned counsel for the petitioner would submit that the petitioners are son and mother respectively and they have been falsely implicated in this case. He would further submit that the petitioners have been suffering incarceration for more than 35 days from 30.10.2021. Hence, he would pray for grant of bail to the petitioner.

4.The learned Government Advocate (Crl. Side) would raise objection stating that out of wordy quarrel, the occurrence had happened and both the accused have been arrested and remanded to judicial custody but admits that the investigation is almost completed.

5. A perusal of FIR shows that the 1st petitioner has strangled the deceased due to which, he suffered suffocation which has caused his death. Considering the nature of allegation levelled against the 1st petitioner, this Court is not inclined to grant bail to the 1st petitioner. Accordingly, this petition is dismissed insofar as the 1st petitioner is concerned.

6. Since the 2nd petitioner is only the mother of the 1st petitioner and considering her age and that the investigation is almost completed and also considering the period of incarceration undergone by her, this Court is inclined to grant bail to the 2nd petitioner with certain conditions.

7. Accordingly, the 2nd 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, Omalur, and on further conditions that:

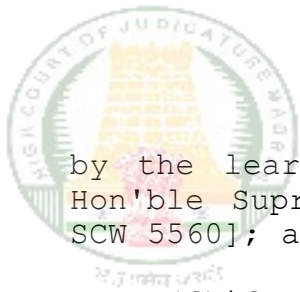
(a) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the 2nd petitioner shall report before the respondent police on every Saturday at 10.30 a.m. until further orders.

(c)the 2nd petitioner shall not tamper with evidence or witness either during investigation or trial;

(d)the 2nd 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 2nd petitioner in accordance with law as if the conditions have been imposed and the 2nd 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.

-sd/-

07/12/2021

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,
OMALUR, SALEM DISTRICT.

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

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

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

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

CRL OP.23291/2021

Date :07/12/2021

RW 08/12/2021