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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2022

CORAM:

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

Cr1.O.P.No.2171 of 2022

1. Kamaraj
2. Karthikeyan
3. Sivakumar @ Siva
4. Saravanakumar @ Santhosh ...Petitioners

Vs.

State of Tamilnadu rep by
The Inspector of Police,
Sooramangalam Police Station,
Salem District.
(Crime No. 989 of 2021) ... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioners on the bail in PRC No. 111 of 2021 on the file of Learned Judicial Magistrate in Crime No. 989 of 2021 on the file of the Respondent police.

For Petitioners: Mr.M.Devaraj

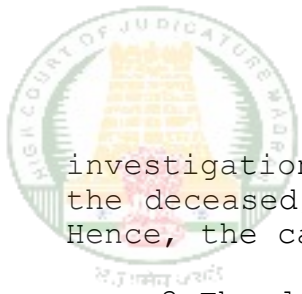
For Respondent : Mr.N.S.Suganthan
(Government Advocate Cr1. Side)

O R D E R

(The case has been heard through video conference)

The petitioners who were arrested and remanded to judicial custody on 18.12.2021 for the offences under Sections 147, 148, 449, 302, 120(b) IPC altered to Sections 147, 148, 449, 302 r/w 149 IPC r/w 120(b) and 201 IPC in Crime No. 989 of 2021, on the file of the respondent police, seek bail.

2. The case of the prosecution is that the 1st accused who is the mother of the deceased had given a complaint stating that on 14.12.2021, her son was found unconscious state and immediately she took her son to a private hospital and subsequently admitted him in the Salem Government Hospital wherein, her son died. Initially the case was registered under Section 174 Cr.P.C. and later during



investigation it was found that on the instigation of the mother of the deceased, the other accused committed the murder of the deceased. Hence, the case was altered as stated above.

3. The learned counsel for the petitioners would submit that the petitioners have not committed any offence as alleged by the prosecution and that the petitioners have been suffering incarceration for more than 10 days from 18.12.2021. He would further submit that the deceased was studying in a Poly Technique College and was missing from the house from 01.07.2021. Hence, the mother of the deceased gave a complaint and subsequently she found that her son was converted into a transgender and he was residing with the transgender in Bangalore and thereafter, he came to Salem and attempted to threatened ordinary persons. Hence, there was a controversy out of which, he sustained injury and died and that there was no motive on the side of the petitioner to kill the deceased and the petitioners have been falsely implicated in this case. He would further submit that one of the co-accused/A2 has been granted bail by this Court. Hence, he would pray for grant of bail to the petitioners.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would raise objection stating that there are totally 6 accused in this case and the petitioners are arrayed as A3 to A6 and they are neighbours and friends of A1. Since, the deceased converted his gender and started begging in the street, his mother/A1 along with other accused who are neighbours and relatives killed the deceased but admits that the charge sheet has been filed and the same has been taken on file and the co-accused has been granted bail by this Court.

5. Considering the facts and circumstances of the case and the fact that the charge sheet has been filed and the same has been taken on file in PRC No. 111 of 2021 on the file of Learned Judicial Magistrate and one of the co-accused has been granted bail by this Court and also considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

(a) Accordingly, the petitioners are ordered to be released on bail on executing their own bonds for a sum of Rs.10,000/- (Rupees Ten Thousand only), before the Superintendent of the concerned prison, in which the petitioners have been confined and thereafter on their release;

(b) the petitioners shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the Learned Judicial Magistrate No.II, Salem, within 15 days from the date of commencement of the Court's normal functioning, 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;

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(d) the petitioners shall report before the respondent police on every Saturday at 10.30 a.m. until further orders. The petitioners shall also appear before the trial Court on all hearings without fail.

(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 Judicial 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
01/02/2022

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,
NO.II, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

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

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S. M.DEVARAJ Advocate on payment of necessary charges
SR.NO.1525

CRL OP.2171/2022

Date :01/02/2022

RW 02/02/2022