



Crl.O.P.Nos.5934, 5976, 6065 & 6156 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 17.03.2022

Pronounced on : 22.03.2022

Coram::

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.Nos.5934, 5976, 6065 & 6156 of 2022

Crl.O.P.No.5934 of 2022

V.Sekar,
S/o.Vedikuppan.

... Petitioner/Accused No.6

/versus/

State (Rep. by its),
The Inspector of Police,
Kilpennathur Police Station,
Thiruvanamalai District.

... Respondent/Complainant

Prayer: This Criminal Original Petition is filed under Section 439 of Cr.P.C.,
pleaded to enlarge petitioner on bail/accused-6 is arrested on 10.02.2022 by the
respondent police in connection with the Crime No.42 of 2022 on the file of the
respondent police and pass order.

For Petitioner : Mr.P.Jayachandran

For Respondent : Mrs.G.V.Kasthuri,
Additional Public Prosecutor



Crl.O.P.Nos.5934, 5976, 6065 & 6156 of 2022

Crl.O.P.No.5976 of 2022

1. D.Muthu,
S/o.Mr.Kamaraj @ Thanraji.
2. Kushipoo @ Chennammal @ D.Jayalakshmi,
W/o.Mr.Kamaraj @ Thanraji ... Petitioners/Accused Nos.4 & 5

/versus/

State Rep. by
The Inspector of Police,
Kilpennathur Police Station,
Thiruvanamalai District.
(Crime No.42 of 2022) ... Respondent/Complainant

Prayer: This Criminal Original Petition is filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in Crime No.42 of 2022 pending
investigation on the file of the respondent police and pass order.

For Petitioners : Mr.M.Manivelan

For Respondent : Mrs.G.V.Kasthuri,
Additional Public Prosecutor

Crl.O.P.No.6065 of 2022

1. Kamaraj @ Thanraji,
S/o.Mr.Munusamy.
2. Raja,
S/o.Mr.Munusamy ... Petitioners/Accused Nos.1 & 2

/versus/



Crl.O.P.Nos.5934, 5976, 6065 & 6156 of 2022

State Rep. by
The Inspector of Police,
Kilpennathur Police Station,
Thiruvanamalai District.
(Crime No.42 of 2022)

... Respondent/Complainant

Prayer: This Criminal Original Petition is filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.42 of 2022 pending
investigation on the file of the respondent police and pass order.

For Petitioners : Mr.M.Manivelan

For Respondent : Mrs.G.V.Kasthuri,
Additional Public Prosecutor

Crl.O.P.No.6156 of 2022

Thilip,
S/o.Kamaraj @ Thanraji

... Petitioner/Accused No.3

/versus/

State Rep. by
The Inspector of Police,
Kilpennathur Police Station,
Thiruvanamalai District.
(Crime No.42 of 2022)

... Respondent/Complainant

Prayer: This Criminal Original Petition is filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.42 of 2022 pending
investigation on the file of the respondent police and pass orders.



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Crl.O.P.Nos.5934, 5976, 6065 & 6156 of 2022

For Petitioner : Mr.M.Manivelan

For Respondent : Mrs.G.V.Kasthuri,
Additional Public Prosecutor

COMMON ORDER

The petitioner/A6, who were arrested for the offences punishable under Section 120(b), 147, 148, 294 (b), 323, 324, 354, 427, 307, 302 of I.P.C and 3(1) of TNPPDL Act, in Crime No.42 of 2022, on the file of the respondent police, seek bail.

The petitioners/A4 & A5, who were arrested for the offences punishable under Section 120B, 147, 148, 294 (b), 323, 324, 354, 427, 307 and 302 of IPC read with Section 3(1) of TNPP(Pvt of Damages and Loss) Act, 1992 in Crime No.42 of 2022, on the file of the respondent police, seek bail.

The petitioners/A1 & A2, who were arrested for the offences punishable under Section 120B, 147, 148, 294 (b), 323, 324, 354, 427, 307 and 302 of IPC read with Section 3(1) of TNPP (Pvt of Damages and Loss) Act, 1992 in Crime No.42 of 2022, on the file of the respondent police, seek bail.



Crl.O.P.Nos.5934, 5976, 6065 & 6156 of 2022

The petitioner/A3, who were arrested for the offences punishable under Section 120 B, 147, 148, 294 (b), 323, 324, 354, 427, 307 and 302 of I.P.C read with Section 3(1) of TNPP (Pvt of Damages and Loss) Act, 1992 in Crime No.42 of 2022, on the file of the respondent police, seek bail.

2. The petitioners are named accused along with 9 others (un-named) in the case registered on the complaint given by one Bharathi W/o.Mani for alleged offences under Section 120 B, 147, 148, 294(b), 323, 324, 354, 427, 307, and 302 of I.P.C and Section 3(1) of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992.

3. The case of the prosecution is that, the deceased Mani and Kamaraj (A-1) had previous enmity regarding money transaction and usage of 10 feet pathway adjacent to the deceased land. On 01/02/2022, at about 11.00 a.m, Raja (A-2), who is the brother of A-1, came to the defacto complainant house and called her husband Mani out. When Mani came out of the house, A-2 told him to accompany him to talk with Kamaraj (A-1) and his son Thilip (A-3) who were waiting nearby . When Mani went to talk with A-1 and his son A-3 about allowing



Crl.O.P.Nos.5934, 5976, 6065 & 6156 of 2022

the pathway through his land, A-1 and A-3 started abusing Mani and his wife in filthy language and attacked. A-1 hit him on chest and pushed down. When the defacto complainant went to rescue her husband, she was insulted and her modestly was molested. With the help of one Siva, she took her husband to Government Hospital, Thiruvannamalai and got outpatient treatment and returned home by 2.30 p.m.

4. Fearing that, she has given complaint to police about this incident, the accused 1 to 6 along with 9 others armed with wooden log, iron rod and crowbar came to her house and indiscriminately attacked the deceased. They damaged two wheelers and the car parked at her house. They attacked her second son Gunal and his friends Abimanian, Thamariselvan and Arvind, who came to rescue her husband. They all sustained injuries over their head and shoulder. Mani was rescued from the assailants and taken to the hospital, but the doctor at Thiruvannamalai Hospital said Mani was brought dead.

5. In the complaint, overt act to each one of the named accused and weapon they used been mentioned. Kamaraj (A-1) his brother Raja (A-2), his



Crl.O.P.Nos.5934, 5976, 6065 & 6156 of 2022

younger son Muthu (A-4) and his wife Kushipoo (A-5) were arrested on 03/02/2022. His other son Thilip (A-3) was arrested on 08/02/2002. Sekar, the sixth accused was arrested on 10/02/2022. The above four petitions are filed by these six accused seeking bail.

(i). Crl.O.P.No.5934 of 2022 by V.Sekar (A-6)

(ii). Crl.O.P.No.5976 of 2022 by D.Muthu (A-4) and Kushipoo (A-5)

(iii). Crl.O.P.No.6065 of 2022 by Kamaraj @ Thanraji (A-1) and Raja (A-2)

(iv). Crl.O.P.No.6156 of 2022 by Thilip (A-3)

6. In the bail petitions, it is stated that, the deceased Mani had encroached the Government Porambokku land and refused pathway to the villagers. When the villagers called for panchayat, he abused the villagers. In the melee, he was pushed down. Mani being a heart patient, he fainted. No one assaulted him or other members of the deceased family. To wreck vengeance on the family members of Kamaraj who questioned the conduct of the deceased Mani for his high-handedness of encroaching Government land, the defacto complainant had twisted the fact and has given the complaint with false information.



Crl.O.P.Nos.5934, 5976, 6065 & 6156 of 2022

7. The Learned Counsel for the petitioners submitted that, the embellishment and exaggerations in the complaint could be very well seen from the post-mortem report of the deceased Mani, which clearly says, no external or internal injuries. While so, contrary to the medical evidence, the defacto complainant had stated that the accused persons attacked Mani over the chest, head and all over the body with wooden log and iron rod and caused bleeding. Likewise, also falsely alleged that the accused persons attacked her son Gunal on his head and right elbow thereby caused bleeding. No wound certificate or accident report available to substantiate this allegation. Therefore, pray for bail.

8. To verify the contention made by the petitioners, this Court called for Case Dairy and perused. From the post-mortem report say, no external or internal injuries found anywhere on the body. On internal examination of the body, they have observed in the heart, a zone of hyperaemia 2.5 x 2 cm on the lower part of anterior surface of left ventricle close to the interventricular septum. Heart preserved and sent for histopathological examination and final opinion as to cause of death is reserved pending reports for chemical analysis of viscera and histopathological examination of heart.



Crl.O.P.Nos.5934, 5976, 6065 & 6156 of 2022

9. Going by the statements of witnesses recorded under section 161

Cr.P.C., it appears that, earlier on the date of incident, there was physical altercation between the deceased and A-1. Both have gone to hospital and got outpatient treatment. Later, after the deceased returned home, A-1 and other accused have gathered at the house of the deceased and picked quarrel, attacked the deceased and caused damages to the vehicles parked. The witnesses claim that, the accused persons know that the deceased Mani suffers from heart ailment had knowing well that the injury caused by them will likely to cause death, attacked him in the vital part of the body.

10. The Learned Additional Public Prosecutor for the respondent would submit that, investigation in this case almost completed and waiting for final report of the post-mortem doctor regarding the cause of death. The family of the deceased and the accused hails from same village and if they are released on bail, there is possibility of danger to life due to the prevailing enmity.

11. In the light of the facts and circumstances stated above and on considering the submission of the Learned counsels, this Court granted bail to the



Crl.O.P.Nos.5934, 5976, 6065 & 6156 of 2022

petitioners on following conditions:-

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(a). The petitioners shall execute a bond for a sum of ***Rs.50,000/- (Rupees Fifty Thousand only) each*** with two sureties, each for a like sum to the satisfaction of the ***Learned Judicial Magistrate-II, Thiruvannamalai.***

(b). 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;

(c). ***A-1 to A-5, who are the petitioners in Crl.O.P.No.5976 of 2022, Crl.O.P.No.6065 of 2022 and Crl.O.P.No.6156 of 2022 shall stay at Vellore and report before Bagayam Police Station daily at 11.00 am, until further orders.***

A-6, the petitioner in Crl.O.P.No.5934 of 2022 (V.Sekar) shall report before the Investigating Officer, as and when required.



Crl.O.P.Nos.5934, 5976, 6065 & 6156 of 2022

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

(e) 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 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]***;

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

12. Accordingly, these Criminal Original Petitions are allowed.

22.03.2022

Index :Yes/No.
Internet :Yes/No.
Speaking order/Non Speaking order

To:-

Page No.11/13



Crl.O.P.Nos.5934, 5976, 6065 & 6156 of 2022

1. The Judicial Magistrate-II, Thiruvannamalai.
2. The Central Prison, Velore.
3. The Inspector of Police, Kilpennathur Police Station.
4. The Section Officer, V.R.Section, High Court, Madras.



Crl.O.P.Nos.5934, 5976, 6065 & 6156 of 2022

Dr.G.JAYACHANDRAN,J.

bsm

Pre-delivery common order made in
Crl.O.P.Nos.5934, 5976, 6065 & 6156 of 2022

22.03.2022