



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2022

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.OP.No.13181 of 2022

1. Jeevanantham @ Jeeva
2. Kanagaraj

..Petitioners

Vs.

State rep by
The Inspector of Police,
Arcot Taluk Police Station,
Ranipet District.
Crime No.27 of 2022

..Respondent

PRAYER:Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioners on bail in Crime No.27 of 2022 pending investigation on the file of the respondent police.

For Petitioners : Mr.D.Thirumoorthy

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor

ORDER

The petitioners, who were arrested and remanded to judicial custody on 14.03.2022 for the offence punishable under Section 174 Cr.P.C @ Sections 341, 324, 506(ii), 302, 34 & 109 of IPC in Crime No.27 of 2022 on the file of the respondent police, seek bail.

2. It is the case of the prosecution that there are 3 accused. The deceased fell in love with the daughter of the second accused. However, it was denied by the daughter of the second accused and even then the deceased compelled to love him. On the date of occurrence, namely 31.01.2022, when the deceased came to the house of the second accused, he was warned by the accused persons. Even then, he was standing there and as such the first accused poured kerosene on the deceased when he was sitting in the two wheeler and set fire on him. Thereafter, the first accused also attacked the deceased with wooden



log. Thereafter, A1 and A2 poured some water on the deceased and the deceased was taken to the hospital by his brother. At that time, the third accused was also present along with A1 and A2. Hence, the present case.

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3. The learned counsel appearing for the petitioner would submit that the occurrence was taken place on 31.01.2022. The FIR was registered only on 13.02.2022 that too under Section 174 Cr.P.C. Thereafter, on 14.03.2022, the offence was altered to Section 302 of IPC along with other offences and on the same date, the petitioners were arrested and remanded to judicial custody. He had also produced the audio record of the deceased and it revealed that the deceased when he was waiting outside the house of the second accused, the first petitioner poured kerosene on the deceased and thereafter, he set fire on him. All the accused persons poured water and the deceased was admitted to the hospital by his brother. The petitioners are under the judicial custody from 14.03.2022. Hence, he prays for grant of bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent police submitted that there are totally 3 accused in which the petitioners are arrayed as A1 and A2. The deceased fell in love with the daughter of the second accused. However, the parents are not interested to give their daughter to the deceased for his marriage. On the date of occurrence namely on 31.01.2022, when the deceased visited the house of the second accused in his two wheeler, the first accused poured kerosene on him and set fire on him. Thereafter, he also attacked the deceased with the wooden log. All the accused were present at the time of setting fire on the deceased after pouring kerosene. He had also produced the dying declaration recorded on 10.02.2022 by the learned Judicial Magistrate -II, Vellore and it revealed that the first accused poured kerosene on the deceased and as such fired on him. Thereafter, he also attacked the deceased with the wooden log and thereafter, the deceased was taken to the hospital by his brother. Therefore, the petitioners have committed more cruel murder on the deceased. Hence, he vehemently opposed to grant bail to the petitioners.

5. It is seen that there are totally 3 accused in which the petitioners are arrayed as A1 and A2. A2 and A3 are husband and wife and A1 is the brother of A2. The deceased fell in love with the daughter of A2 and A3. However, they refused to give their daughter for marriage with the deceased. On 31.01.2022, when the deceased visited their house, the first accused poured kerosene on him and set fire. Thereafter, he also attacked the deceased with wooden log. In fact, A1 and A2 poured some water on the deceased and the deceased was taken to the hospital by his brother. He was alive till 10.02.2022 and on 10.02.2022, the learned Judicial Magistrate-II, Vellore, recorded his dying declaration.



6. A perusal of the dying declaration revealed the above said facts. However, the learned counsel for the petitioner produced the audio record of the deceased and it revealed that the deceased himself poured kerosene and set fire on him due to humility. The petitioners poured some water and thereafter he was taken to the hospital. There is no explanation for the belated dying declaration on 10.02.2022 for the occurrence taken place on 31.01.2022. That apart, though the occurrence was took place on 31.01.2022, the FIR was registered on 13.02.2022 that too under Section 174 Cr.P.C, after recording the dying declaration, dated 10.02.2022. Though, the deceased categorically mentioned the specific overtact of the petitioners, the respondent Police registered the case only under Section 174 Cr.P.C on 13.02.2022. On 14.03.2022, the offences were altered to the offences under Sections 341, 324, 506(ii), 302, 34 & 109 of IPC. There is also no explanation for the delay in registering the FIR and no inclusion of the petitioners as accused.

7. Considering the above facts and circumstances of the case, and also taking note of the fact that the petitioners are in judicial custody from 14.03.2022, this Court is inclined to grant bail to the petitioners. Accordingly, the petitioners are ordered to be released on bail on their executing a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two blood related sureties, each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Arcot 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 petitioners shall report before the respondent police daily Morning at 10.30 a.m. and Evening 5.00 p.m, until further orders.

[c] the petitioners shall not abscond either during investigation or trial.

[d] the petitioners shall not tamper with evidence or witness 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].



[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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-sd/-

10/06/2022

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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
ARCOT.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
ARCOT TALUK POLICE STATION,
RANIPET DISTRICT

4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S S.P.ARTHI Advocate on payment of necessary charges
SR.No.8855

CRL OP.13181/2022

Date :10/06/2022

CSK 10/06/2022