



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2022

CORAM

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.24579 of 2021

1.Natarajan
2.Kandavel
3.Allahpichai
4.Vinoth
5.Sundarraaj

... Petitioners

Vs.

State Rep. by,
The Inspector of police,
CBCID- North Ps,
Cuddalore,
Crime No.2 of 2021)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C., to enlarge the petitioners 2 to 6 on bail concerned in Crime No. 2 of 2021 pending on the file of the respondent police.

For Petitioner : Mr.G.Prabakaran

For Respondent : Mr.Hasan Mohammed Jinnah,
State Public Prosecutor
Assisted by Mr. E.Raj Thilak,
Additional Public Prosecutor

ORDER

The petitioners A2 to A6, who were arrested and remanded to judicial custody on 08.10.2021 for offence punishable under Sections 147, 302 read with 149, 341, 120B and 201 of IPC, in Crime No.02 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that originally, the case in Cr.No.562 of 2021 came to be registered on 20.09.2021 by the Inspector of Police, Kadampuliyur Police Station, under Section 174(1) of Cr.P.C, for the suspicious death of one Govindarasu, on the complaint given by the son of the deceased. The complaint is that the deceased Govindarasu was employed in the Cashew Nut Factory of A1 viz., M/s.TRV.Gayathri Cashews. The petitioners herein are the Personal Assistant, Company Manager and Employees in the Cashew Nut Factory of



A1. It is alleged that deceased Govindarasu was caught red-handed with 7 kg of cashew nuts stolen from the factory of A1, due to which he was questioned and brutally assaulted and taken to Kadampuliyur Police Station with a complaint of theft. The para constable of the Police Station, finding injuries on the Govindarasu, refused to receive the complaint and advised injured to be taken to hospital for treatment. The injured Govindarasu not taken to any hospital, instead taken back to the cashew factory, where he took some pesticides and attempted to commit suicide. Thereafter, the petitioners took Govindarasu to Government Hospital, Panruti, where he was declared dead. The defacto complainant, who is the son of Govindarasu received a phone call from the mobile of his father and he was informed about his father's death. Having suspicious on the death of his father, the defacto complainant informed his relatives in the village, who visited the hospital, found Govindarasu body with injuries, took photographs in their mobile and sent the same to the defacto complainant. Hence the complaint.

3. On the complaint of the de facto complainant, a case in Crime No.562 of 201 under Section 174 Cr.P.C was registered by the Sub Inspector of Police, Kadampuliyur Police Station, Cuddalore. The Inspector of Police failed to take immediate action, since the Cashew factory belongs to A1, who is the sitting Member of Parliament in Cuddalore Constituency. Hence, the defacto complainant sent representation to the District Collector and to the Superintendent of Police. Thereafter, a protest was held by the defacto complainant and others. Due to which, an order was passed by the Director General of Police, dated 25.09.2021, directing the case to be transferred to the file of the Inspector of Police, CBCID, North Police Station, Cuddalore/respondent police and it was renumbered as Crime No.2 of 2021.

4. Since A1 in this case is an elected Member of Parliament of Cuddalore Consistency, there was apprehension that the postmortem will not be properly conducted by the Doctors of Villupuram Government Medical College Hospital. Hence, the defacto complainant approached this Court by way of Writ Petition for conducting postmortem by the Doctors of JIPMER Hospital, Puducherry. Thereafter, this Court vide order, dated 22.09.2021, directed the Doctors of JIPMER Hospital, Puducherry to conduct postmortem. After the postmortem, the Sections were altered from 174 (1) of Cr.P.C to 147, 302, 201 r/w 149, 341, 120 (B) of IPC. On 08.10.2021, the petitioners/A2 to A6 were arrested and produced for remand, Police custody for two days was given and thereafter, returned back to the Judicial Custody.

5. Learned counsel for the petitioners submitted in this case, A1 voluntarily surrendered before the learned Judicial Magistrate Court No.II, Panruti. Later, he was granted bail by this Court on 19.11.2021 in CrI.O.P.No.21000 of 2021. The defacto complainant further caused apprehension that the investigation by the Inspector of



Police, CBCID, Cuddalore might not be independent and will be influenced, since her husband is the Inspector of Police, attached to another wing of Police and his duty is to collect details about the VIP movements and other high dignitaries. Hence, he sought transfer of investigation. The Director General of Police, CBCID, Chennai considered the same and investigation was transferred to the file of Inspector of Police, CBCID, Villupuram. The petitioners arrested on 08.10.2021 and they are in judicial custody from thereon.

6. He further submits that in this case, investigation is almost over, A1 was granted bail with condition and the same now relaxed. The petitioners are in judicial custody for almost 90 days and, are entitled for statutory bail, otherwise to. The substantial portion of the investigation is completed and the investigating officer is yet to file a final report. The petitioner are permanent residents, having deep social roots, and shall cooperate with investigation and abide any condition. Hence, seeks bail.

7. The learned Additional Public Prosecutor filed his counter and submitted that in this case immediately, on receipt of the complaint from the defacto complainant, the Inspector of Police, Kadambuliur Police Station registered the case under Section 174 Cr.P.C., and later, the case, on the Directions of the DGP, transferred to the file of the Inspector of Police, CBCID, Cuddalore and later to the file of the Inspector of Police, CBCID, Villupuram. The Inspector of Police, CBCID, Villupuram visited the scene of occurrence, recorded the statement of witnesses, seized the articles, prepared Mahazars, sent the seized articles for forensic examination. On receipt of the Postmortem report, Sections altered from Section 174 Cr.P.C., to the case of murder. The CCTV footage in the Cashew Nut Factory was seized, as also the mobile phone and documents. During investigation, the accused were taken to police custody, their confession statements were recorded, pursuant to which, recoveries were made. Now, substantial portion of the investigation completed and the forensic report is awaited on the CCTV footages and telephone tower location. After receiving the same, charge sheet will be filed without any delay. Hence, he strongly objected for grant of bail.

8. This Court considered the rival submissions and perused the materials produced.

9. It is seen that the deceased is said to have been caught with 7 kgs of cashew nuts stolen from the factory of A1 on 19.09.2021, which was enquired by A1, the owner of TRV Gayathri Cashews. As per his direction, accused 2 to 6 questioned the deceased and assaulted and took him to Kadampuliur Police Station along with the complaint. The para constable finding injuries on Govindarasu, enquired him and refused to take him to custody, advised the accused to provide medical treatment and bring back him next day when his superior officers will be available.



10. Contrary to the same, the injured Govindarasu was taken back to the factory, where he said to have consumed poison. The postmortem report confirms that the death of Govindarasu is due to "Crano-cerebral injuries sustained due to hard and blunt force impact" Dichlorvos (poisonous organophosphorous compound) and blood ethyl alcohol level of 161 mg% W/V was also detected in visera. On enquiry it was revealed that the deceased was not a drinker. Therefore, the death of the deceased was homicide. Now, investigation is almost completed and awaiting for further forensic report. On receipt of the same, charge sheet will be filed.

11. The petitioners were arrested on 08.10.2021 and they were taken to Police Custody for few days and now, the substantial portion of the investigation completed and awaiting Forensic reports with regard to CCTV recordings, CDR details, mobile tower locations. Once the report is received, it will be analysed and charge Sheet would be filed by the Investigation Officer. All in this case was granted bail in CrI.O.P.No.21000 of 2021, by this Court on 19.11.2021 with conditions and the same relaxed. Today, it is the 90th day, the petitioners are in judicial custody and they are entitled for statutory bail.

12. Taking into consideration, the nature of allegations against the petitioners and taking note of the fact that the petitioners are in judicial custody from 08.10.2021 and the stage of investigation, this Court is inclined to grant bail to the petitioners, subject to the following conditions:

(a) the Petitioners shall execute their own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the concerned prison in which the Petitioners are confined on their release;

(b) the Petitioners shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the Chief Judicial Magistrate, Cuddalore within 15 days from the date of normal functioning of the Courts below, failing which the bail granted by this Court shall stand cancelled automatically;

(c) the petitioners shall appear before the respondent police on every Monday without fail until further orders.

(d) 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;

(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 Magistrate/Trial Court is entitled to take appropriate action against the Petitioner 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];

(i) if the accused thereafter absconds, a fresh F.I.R. can be registered under Section 229A I.P.C.

13. Accordingly, this Criminal Original Petition is ordered.

-sd/-

07/01/2022

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 CHIEF JUDICIAL MAGISTRATE
CUDDALORE.

2 THE INSPECTOR OF POLICE,
CBCID, NORTH POLICE STATION,
CUDDALORE

3 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.G.PRABHAKARAN Advocate on payment of necessary charges

CRL OP.24579/2021

Date :07/01/2022

JPA 10/01/2022