



WEB COPY



Crl.O.P.No.6695 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2023

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.6695 of 2023

1. Sampathkumar

2. Prathap Kumar

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
Thally Police Station,
Krishnagiri District.

(Crime No.226 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners on bail, in connection with the Crime
No.226 of 2022, pending investigation on the file of the respondent Police.

For Petitioners : Mr.M.P.Saravanan

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)



Crl.O.P.No.6695 of 2023

WEB COPY

ORDER

The petitioners, who were arrested and remanded to judicial custody on 26.01.2023, in Crime No.226 of 2022 registered for “Man Missing” and later, altered for the alleged offences punishable under Sections 120(B), 201 & 302 of IPC, on the file of the respondent Police, seeks bail.

2. The *de-facto* complainant, Ganesha has lodged a complaint stating that his father was missing from 02.09.2022 and thereby, based on his complaint, a “Man Missing” case in Crime No.226 of 2022 was registered by the respondent Police on 06.09.2022. Subsequently, based on the complaint given by the Village Administrative Officer of Nagamarai Village, that the body of an unknown person was found near the Cauveri river, the case in Crime No.124 of 2022 came to be registered under Section 174 Cr.P.C in Eriyur Police Station. Later, during the course of investigation, it came to light that due to the land dispute between the first petitioner herein, who is the brother of the de-facto complainant's father, had arranged



Crl.O.P.No.6695 of 2023

henchmen and planned to do away with his brother, thereby, committed murder of him by giving him poison and strangulating his neck with towel and hidden his corpse near Piligundu forest area and thereafter thrown the body into the river. Thereby, the case has been transferred to the respondent Police Station and the offences are altered to one under Sections 120(B), 201 & 302 of IPC. Hence the case.

3. Learned Counsel for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case. He also submitted due to the existing land dispute, the de-facto complainant has lodged a false complaint as against the petitioners herein. He further submitted that the co-accused in this case have been granted bail by this Court in Crl.O.P.No.27724 of 2022 vide order dated 11.11.2022, in connection with the crime No.124 of 2022, which was connected to the present case. He also submitted that absolutely there is no eye-witness to the occurrence and the the petitioners are in custody from 26.01.2023 and they are ready to abide by any stringent conditions that may be imposed by this Court. Hence, he prayed to grant bail to the petitioners.



Crl.O.P.No.6695 of 2023

WEB COPY

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that due to the existing land dispute, the first petitioner, who is the brother of the deceased, had arranged henchmen and planned to do away with his brother, thereby, committed murder of him by giving poison and strangulating his neck with towel and hidden the corpse near Piligundu forest area and later, thrown the same into the river, whereas the body of the deceased was found in Nagamarai Muniyappa Temple near the bank of river Cauveri. He further submitted that there is no previous case pending as against the petitioners and the investigation is still pending. However, he vehemently opposed for grant of bail to the petitioners.

5. Heard the learned Counsel for the petitioners and the learned Government Advocate (Crl.Side) and perused the materials available on record.

6. Taking into consideration the facts and circumstances of the case, the submissions made by either side, taking note of the fact that the co-accused have been granted bail by this Court and also considering the period



Crl.O.P.No.6695 of 2023

of incarceration undergone by these petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail on their executing a separate bond for a sum of **Rs.25,000/- (Rupees Twenty five thousand only)** with **two sureties**, each for a like sum to the satisfaction of the **learned District Munsif cum Judicial Magistrate, Denkanikottai**, 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, everyday at 10.30 a.m. and 5.30p.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



Crl.O.P.No.6695 of 2023

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 abscond, a fresh FIR can be registered under Section 229A IPC.

24.03.2023

ham

To

1. The District Munsif cum Judicial Magistrate,
Denkanikottai.
2. The Inspector of Police,
Thally Police Station,
Krishnagiri.
3. The Central Prison,
Salem.
4. The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No.6695 of 2023

A.D.JAGADISH CHANDIRA.,J.

ham

Crl.O.P.No.6695 of 2023

24.03.2023