



WEB COPY



Crl.O.P.Nos.24212, 24392, 24442, 24508,
24832, 24902, 25989 & 25561 of 2023

C.V.KARTHIKEYAN,J.

All these petitions relate to Crime No.386 of 2023, registered by the respondent for the offences punishable under Sections 147, 148, 341, 294(b) & 302 of IPC against the accused, who are 25 in numbers. Subsequently, after investigation, final report had been filed and the same had been taken cognizance by the learned Judicial Magistrate No.II, Cuddalore, as P.R.C.No.36 of 2023. The matter had also been committed to the Court of Sessions and it is now pending before the Principal Sessions Court at Cuddalore.

2.One of the grounds raised, even before entering into any discussion on merits, is the statement made by the learned Senior Counsel on behalf of A15, A16, A19-22 and A24 that the learned Principal Sessions Judge has been now assigned with other duty and he therefore he raises a grievance that there would be no progress in the case. There could be no possibility of even the charges being framed.



WEB COPY

3.However, the learned Government Advocate (Crl. Side) for the respondent stated that there is also a possibility of the learned Principal Sessions Judge making over the case to any other. Additional Sessions Court, who is competent to try the case. Therefore, that particular ground should not weigh on the mind of this Court. Be that as it may, it is also stated that this Court had granted bail to A25, but the learned Government Advocate for the respondent however stated that grant of bail to A25 was on a specific ground that his name was implicated only on confession, but that there are specific overt acts as against the present petitioners herein, who are A10 to A24, and who had filed various petitions as would be detailed below.

4.It is therefore also stated by the learned Government Advocate for the respondent that grant of bail to A25 should not weigh the mind of this Court and that should not swing the pendulum in favour of the petitioners herein, who seek bail.



WEB COPY

5. Even before proceeding further it must be stated that A24, has filed Crl.O.P.No.24212 of 23 and A15, A16 and A18-22 have jointly filed Crl.O.P.No.25989 of 2023 and A13 has filed Crl.O.P.No.24442 of 2023, A12 has filed Crl.O.P.No.24392 of 2023, A14 has filed Crl.O.P.No.24902 of 2023 and A10 & A11 have filed Crl.O.P.No.24508 of 2023, A17 has filed Crl.O.P.No.24832 of 2023 and A23 has filed Crl.O.P.No.25561 of 2023.

6. The case in brief as stated by the prosecution is that the defacto complainant had lodged a complaint on 27.06.2023 stating that about three years back, consequent to some group clashes between two different groups in the village at Gundu Uppalavadi in Cuddalore District, her husband is alleged to have committed the murder of the brother of the 1st accused. Thereafter, her husband had shifted his location but after sometime he had come back to his village. It is stated that this particular information was given by A25, primarily to the 1st accused and to those who were also directly affected by the murder of the brother of the 1st accused.



WEB COPY

7.It is stated that owing to previous motive, which the 1st accused had harboured against the husband of the defacto complainant, and the learned Senior Counsel for the petitioner states that they constitute practically everyone in the village, had gathered and had surrounded the husband of the defacto complainant, had restrained her and her son and also a motorcycle, which was coming across on the way and committed murder on the husband of her husband.

8.In the counter affidavit filed by the respondent, it had been stated that during the course of such violent act of murder, the accused had mutilated the face of the deceased completely and all the accused had run away from the place of occurrence.

9.It is the case of the learned Government Advocate (Crl. Side) for the respondent that there are five primary witnesses namely the defacto complainant, her son and other three independent witnesses and it is stated that the said witnesses had identified that A1 to A24 were present at that particular spot. The role of A25 surfaced later on



WEB COPY

confession and taking that particular aspect into consideration, this Court had earlier granted bail to A25.

10. This Court on the previous occasion, had called upon the respondent to show to the extent possible the direct overt acts as against each one of the petitioners herein. But, I do understand the difficulty placed by such a request made by the Court since, once a final report had been filed, that will have to be discerned by the learned Sessions Judge and charges will have to be framed against each one of the accused and any observation today would limit that particular exercise done by the learned Sessions Judge. In an offence like this, there would be a group, who would be actually committing the act of murder, there will others who would be standing outside in the first ring and there would be yet another group, who would be standing outside restraining anybody from helping the person being assaulted or in any other manner. The actual overt act can be discerned only by a careful reading of the final report, which document would also contain the statement of witnesses and the conclusion of the Investigating Officer relating to the allegation of the acts committed by each one of the said accused.



WEB COPY

11.The learned Senior Counsel, who appears on behalf of A24 and A15, A16 and A18-22 stated that so far as A24 is concerned, she is a lady, who was selling fish at that particular point of time and she happened to be there more out of circumstances and then out of any real intention.

12.The learned Senior Counsel also stated that she had no direct role in committing the offence or in preventing anybody from restraining those who are alleged to have committed the offence from committing the offence. The learned Senior Counsel therefore stated that A24 practically stood on the same line as of A25, and can be treated as a bystander, who was there at that particular place.

13.With respect to A15, A16 and A18-22 and also incidentally as advanced by all other learned counsels for A23, A10, A11, A12, A13, A14 and also A17 are concerned, it is stated in one chorus that they were all only standing there and at the most, they could be charged only under Section 147 IPC for being part of the violent group at that particular



WEB COPY

place or if they had aided and abetted the prime accused in committing the offence, under Section 109 of IPC. It is therefore insisted that their roles being minimum, the Court should consider granting them bail by also taking into consideration the long period of incarceration, which they had already suffered.

14.It is however stated by the learned Government Advocate (Crl. Side) for the respondent that A1 to A4, A6 to A9 had been detained under Act 14 of 1982. So far as A5 is concerned, bail application had been filed before this Court earlier and the same had been dismissed and A5 is not before this Court in this batch of petitions.

15.I have carefully considered the arguments advanced.

16.The entire issue is a fallout of an earlier incident, where the husband of the defacto complainant had been quiet adventurous and had taken upon himself to be the focus point of an allegation of murder of the brother of A1. This naturally put him in a very fluid situation and he



WEB COPY

had stayed out of the village, but later moved back to the village. At that point of time, all the accused had apparently surrounded him and later his dead body alone was recovered with the face badly mutilated and it is now the role of the prosecution to take a decision as to who actually committed the murder and who stood outside, either with intention or were outside without any intention and were only bystanders.

17.As stated by me, this is an aspect which can be discerned only at the time of examining the final report and on reading the specific allegations as against each one of the said accused. One factor, which plays on my mind is the observation of the learned Sessions Judge who dismissed the bail application and against which the present bail application has been failed, wherein while dismissing the bail application on 27.09.2023 he had very specifically stated that there is picketing in the place and 50 police are in duty.

18.It had also been stated that there is life threat to the petitioners/ accused, which indirectly meant that if any of the petitioners



WEB COPY

are granted bail there would always be a further retaliation by those who were in consonance with the deceased.

19.It is also stated that the accused might abscond and they would also threaten the witnesses. This aspect of threatening of witnesses has also been emphasised by the learned Government Advocate who stated that there are five primary witnesses namely the wife of deceased, the son of the deceased and three other independent witnesses and stated that their safety will have to be taken into consideration and every assurance will have to be given by the Court that they can tender evidence without any threat exercised against them. This is a very vital factor to be consider.

20.Even though it is stated that the direct overt acts as against the petitioners herein are only minimal in nature and do not constitute the actual offence under Section 302 of IPC, which is a fact which has to be examined on examining the final report, till the primary witnesses namely the wife of the deceased, the son of the deceased and other three



WEB COPY

independent witnesses are examined it may not be appropriate to consider the bail applications of these petitioners. On that one ground, at this stage, I am not inclined to grant bail to the petitioners in all these petitions. Accordingly, all these Criminal Original Petitions stand dismissed.

16.11.2023

ata



WEB COPY



C.V.KARTHIKEYAN,J.

ata

Crl.O.P.Nos.24212, 24392, 24442, 24508,
24832, 24902, 25989 & 25561 of 2023

16.11.2023