



(CBI Crime No.RC0502020 S0008 &

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 15/09/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

CrI.OP(MD)Nos.15463 and 15466 of 2023

S.Sridhar

... Petitioner/ Accused No.1
In both cases

Vs

1.Additional Superintendent of Police,
CBI, SC II, New Delhi.
(Case No.RC 0502020 S 0008) &
(Case No.RC 0502020 S 0009)

2.The Director General of Police,
Mylapore, Chennai-4.

... Respondents/Complainants

IN BOTH CASES :

For Petitioner	:	Mr.S.Maya Perumal, Advocate
For 1 st Respondent	:	Mr.C.Muthusaravanan, Special Public Prosecutor for CBI Cases
For 2 nd Respondent	:	Mr.B.Nambiselvan, Additional Public Prosecutor
For Intervenor	:	Mr.V.Rajiv Rufus, Advocate

PETITIONS FOR BAIL Under Sec.439 of Cr.P.C.

COMMON PRAYER :- To enlarge the Petitioner/Accused on bail in connection with S.C.No.470 of 2020 on the file of the Learned I Additional District and Sessions Court, Madurai relating to RC 0502020 S 0008 & RC 0502020 S 0009 pending on the file of the Respondent Police.

COMMON ORDER:- The Court made the following order:-

The petitioner is Accused No.1 in both Cases in RC 0502020 S0008 and RC 0502020 S0009, respectively, on the file of the respondent/CBI. The petitioner was arrested and remanded to judicial custody on 02.07.2020, seeking bail, the present



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petitions have been filed.

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2.The aforesaid case in RC 0502020 S0008 relates to the death of one Benniks, S/o.Late P.Jeyaraj, and RC 0502020 S0009 relates to the death of P.Jeyaraj, father of the deceased Benniks, both died in judicial custody.

3.The brief facts leading to the filing of the present bail petitions are as follows:-

3.1.The deceased in these cases, namely Benniks and Jeyaraj were arrested relating to Crime No.312 of 2020, for the offences punishable under Sections 188, 269, 294(b), 353 and 506(2) of the Indian Penal Code on the file of Sathankulam Police Station, and both of them were remanded to judicial custody and lodged in Sub Jail, Kovilpatti on 20.06.2020. Subsequently, on 22.06.2020, at about 07.35 p.m., the deceased Benniks complained of wheezing problem and he was immediately taken to the Government Hospital, Kovilpatti, where he died at about 09.00 p.m. Based on the complaint given by the Jail Superintendent, Sub Jail, Kovilpatti, an FIR was registered in Crime No.649 of 2020 under Section 176(1A)(i) of the Code of Criminal Procedure, at Kovilpatti East Police Station.

3.2.Thereafter, on the very same day, at about 10.20 p.m., the deceased Jeyaraj also fell sick and he was also taken to the Government Hospital, Kovilpatti and he died at about 05.40 a.m., on 23.06.2020. Once again, based on the complaint filed by



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the Jail Superintendent, Sub Jail, Kovilpatti, an FIR was registered in Crime No.650 of 2020 under Section 176(1A)(i) of the Code of Criminal Procedure.

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3.3.In both the cases, inquest was conducted by the learned Judicial Magistrate No.1, Kovilpatti. Thereafter, autopsy was conducted by a Board of three doctors of Forensic Medicine and Toxicology Department of Tirunelveli Medical College, Tirunelveli and they gave an opinion that, both the deceased would appear to have died of complications of blunt injury sustained.

3.4.In the meantime, the Madras High Court, Madurai Bench, has taken suo motu Writ Petition in W.P.(MD)No.7042 of 2020 and ordered investigation of the case by CBCID. Based on the direction, CBCID took up the investigation and registered two FIRs in Crime Nos.1 and 2 of 2020, and during investigation, the complicity of the petitioner prima facie established and he was arrested by CBCID on 02.07.2020. Subsequently, investigation of both the cases was transferred to CBI, by the Government of Tamil Nadu, vide Notification dated 29.06.2020. Subsequently, the Government of India, also issued a Notification for CBI enquiry on 06.07.2020. Based on the same, the CBI took over the investigation and registered the fresh First Information Reports in RC 0502020 S0008 and RC 0502020 S0009. During investigation, it was found that after the arrest of both the deceased, they were kept in Sathankulam Police Station, and at the instigation of the petitioner herein, the other



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accused, namely, Sub-Inspector of Police and Constables brutally tortured the deceased and caused as many as 18 injuries on both the deceased, subsequently, they died due to complications of blunt injuries sustained by them. Now, seeking bail, the petitioner is before this Court with the present bail petitions.

4.Heard both sides.

5.The facts need not be repeated since on several occasions, the bail applications have been filed before this court before different Benches. The latest one was filed by the co-accused namely Ragu Ganesh in Crl.OP(MD)No.15201 of 2023. It came up before the Coordinate Bench of this court and on 08/09/2023, it was dismissed.

6.After that, the present application has been filed by this petitioner, who is arrayed as A1, on 23/08/2023. But however, this matter was heard on several occasions namely on 25/08/2023, 08/09/2023 and finally, it was heard on 13/09/2023. Orders have been reserved.

7.Intervenor has also intervened and submitted his objections.

8.On a short ground, this petition came to be filed. So far 48 witnesses have been examined, among the 48 witnesses, star witnesses have been examined in full and the cross examination of the witnesses was over. Chief or cross takes several days and because of the marathan trial process, he is in custody ever-since from the date of arrest for more than three years. According to him, even as per the statement of the



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witnesses before the trial court, no direct overtact has been attributed. He is referring to the evidence of some of the witnesses. By pointing out that one of the witnesses has stated that this petitioner alleged to have asked the other police man as to why, the deceased has not been beaten up. Later he went out of the office and during the course of the above said time, he did not return. Only after the remand, he returned to the police station. So according to him, this evidence shows that he is not directly involved in the above said assault. Even criminal conspiracy theory can be disbelieved, which was not taken up by the prosecution at the initial stage. Even the alleged words uttered by the petitioner will not amount to abetment of commission of murder.

9. Another ground is that he is taking treatment for his ailment even in prison hospital. How many months will take for the trial to be completed may not also be known. Because more than 168 witnesses are cited in the final report. Even for cross examination of 48 witnesses, it has taken three years. So, according to him, considering the above said aspect, he may be released on bail, so that, he can continue his treatment out of the prison.

10. Per contra, the learned Special Public Prosecutor would submit that because of the repeated filing of the recall petitions and marthan cross examination by several advocates, the delay occurred. Apart from that, he has also submitted that for about



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three months, the Presiding Officer post was kept vacant. Now it has been filled up.

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He is also referring to the order passed by the Coordinate Bench of this court in WP (MD)No.3665 of 2021 filed by the de-facto complainant seeking the trial court to speed up the trial process. It was ordered, on 28/08/2023 directing the trial court to complete the trial process and three months time was granted to the trial court from the date of assumption of charge by the new Presiding Officer.

11.According to the learned Special Public Prosecutor, the new Presiding Officer took charge, on 28/02/2023 and now three months time is not over. At the most, they are going to examine only six more witnesses. That will be completed as directed by the Coordinate Bench of this court in WP(MD)Nlo.3665 of 2021. He is not referring to other aspects raised by the petitioner with regard to the evidence of the Head Constable regarding the overtact.

12.Probably on the ground that if any discussion is made by this court over the above said evidence, it will naturally influence or cause prejudice to the parties and the trial court also. So making discussion on the evidence may not be appropriate. So, I am refraining from making any discussion on that.

13.The learned counsel appearing for the de-facto complainant would also rely upon the petition filed by this petitioner seeking separate escort before the trial court in Cr.MP No.188 of 2022. The point is the commission of the offence is admitted by



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this petitioner. For for the very same reason, as stated above, I am refraining from making any comment or observation on that.

14.Now the trial is going to be over with the examination of 6 more witnesses. As undertaken by the learned Special Public Prosecutor, the trial will also be completed within the time stipulated by the Coordinate Bench of this court in WP (MD)No.3665 of 2021. At the fag end of the trial process, it may not be appropriate on the part of this court to enlarge the petitioner on bail. Even the SLP, that was filed by the petitioner was dismissed by the Hon'ble Supreme Court, considering the seriousness of the allegation.

15.I find absolutely no reason to entertain this petitioner, on any of the grounds advanced by the petitioner.

16.In the result, this criminal original petitions stands dismissed. of course, the trial court is directed to comply the order that has been passed by this court in WP (MD)No.3665 of 2021, dated 30/06/2023.

sd/-
15/09/2023

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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To

- 1 THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, MADURAI.
- 2 THE ADDITIONAL SUPERINTENDENT OF POLICE, CBI, SC II, NEW DELHI.
- 3 THE DIRECTOR GENERAL OF POLICE, MYLAPORE, CHENNAI
- 4 THE SUPERINTEDENT, CENTRAL PRISON, MADURAI.
- 5 THE SPECIAL PUBLIC PROSECUTOR FOR CBI CASES,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE REGISTRAR (JUDICIAL),
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN

Crl.OP(MD)Nos.15463 and 15466 of 2023

Date :15/09/2023

RS/DD/SAR-(21.09.2023) 8P 8C

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