



WEB COPY



Crl.O.P.Nos. 1557 & 98 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.01.2024

PRONOUNCED ON : 05.02.2024

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.O.P.Nos. 1557 & 98 of 2024

Crl.O.P.No. 1557 of 2024

Vasudevan

... Petitioner/Accused

Vs.

The State
Rep. by
Station House Officer
Chozhatharam Police Station
Cuddalore District.
(Crime No.234 of 2023)

... Respondent/Complainant

Crl.O.P.No. 98 of 2024

1. Sivasurya

2. Naveen Kumar

3. Saravanan

... Petitioner/Accused

Vs.

The State



Crl.O.P.Nos. 1557 & 98 of 2024

Rep. by
Station House Officer
Chozhatharam Police Station
Cuddalore District.
(Crime No.234 of 2023)

... Respondent/Complainant

PRAYER IN BOTH PETITIONS: Criminal Original Petitions filed under Section 439 of Cr.P.C., pleaded to enlarge the petitioners on bail in Crime No.234 of 2023 pending on the file of the respondent Police.

For Petitioners in
both petitions : Mr.G.Pugazhenth

For Respondent in
both petitions : Mr.L.Baskaran
Government Advocate (Crl.Side)

COMMON ORDER

The accused No. 1 has filed Crl.O.P.No. 1557 of 2024 and the Accused Nos. 2, 3 and 4 have filed Crl.O.P.No. 98 of 2024, both in Cr.No. 234 of 2023, originally registered as boy missing and later altered into Sections 302, 201, 342 and 120(b) of IPC seek bail.



CrI.O.P.Nos. 1557 & 98 of 2024

2. All the four accused had been remanded to custody on 04.12.2023. The second and third accused are the sons of the fourth accused.

3. It is the case of the prosecution that originally a case was registered as boy missing on a complaint lodged by one Elayaperumal on 03.12.2023 stating that his son Gokulakrishnan, aged about 16 years, had gone out of the house at 08.45 p.m., on 02.12.2023 but did not return home. It is the further case of the prosecution that the dead body of the boy was found with deep cut injuries on the back side of the head. It is the case of the prosecution that the petitioners herein had conspired to commit the murder of the boy as he had defamed the good name of the family of the petitioners. It is under those circumstances that the First Information Report came to be registered.

4. In the Petitions filed seeking bail, all the petitioners denied that they had committed the offence. It is stated by the learned counsel that the entire case is based on circumstantial evidence. It is stated that investigation has been completed and final report had also been filed. It is also stated that the offence had been altered from Section 302, 201, 342 and 120(b) of IPC to Section 302, 201, 342, 120(b), 34 and 109 IPC.



Crl.O.P.Nos. 1557 & 98 of 2024

WEB COPY

5. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl. Side) appearing for the State.

6. It is the contention of the learned counsel for the petitioners that the entire case is based on circumstantial evidence. It is further stated that the only direct evidence is the statement that the deceased was found talking with the first accused. It had been insisted by the learned counsel that since investigation has been completed and the final report had been filed, the materials presented by the prosecution can only be tested during trial and therefore, this Court should grant bail to the petitioners.

7. The learned Government Advocate (Crl. Side) would submit that originally a complaint was registered as boy missing and later, the body of the boy /deceased was recovered with cut injuries on the back side of the head. It was stated that after investigation, final report has been filed as against these accused.

8. This Court had called for the case diary relating to FIR in Cr.No. 234 of 2023 and had perused the same.



CrI.O.P.Nos. 1557 & 98 of 2024

WEB COPY

9. It is a case based on circumstantial evidence. Originally, the father of the deceased had given a complaint about his son / the deceased missing in the late evening on 02.12.2023. Thereafter, on 03.12.2023, the body was recovered from a well in the same Village. There were deep cut injuries on the back side of the head and back side of the neck. It is thus clear that murder had been committed and then, the body had been thrown into the well.

10. The case of the prosecution is that there was a direct motive for these accused to commit the murder since the deceased had defamed the family of the second to fourth accused.

11. A perusal of the records show that investigation has been confined only to recording statements of the deceased missing and that he was last seen in the company of the first accused and about recovery of the body. There has been no investigation done to establish motive. This would actually turn out to be advantages of the accused, if the motive is not established. It is further seen that when filing the final report, the offence had been altered to Sections 302, 201, 342, 120(b), 34 and 109 IPC. Sections 34 and 109 IPC have not been included in the petition.



WEB COPY



Crl.O.P.Nos. 1557 & 98 of 2024

C.V.KARTHIKEYAN, J.

vsg

12. Let the trial proceed. At this stage, I am not inclined to grant bail to these petitioners though it is claimed that the investigation has been completed. Both the Criminal Original Petitions stands dismissed.

05.02.2024

vsg

To

1. The District Munsif cum Judicial Magistrate
Kattumannarkoil, Cuddalore District.
2. The Station House Officer
Chozhatharam Police Station
Cuddalore District.
3. The Central Prison, Cuddalore.
4. The Public Prosecutor,
High Court of Madras.

Pre Delivery Common Order made in

Crl.O.P.Nos. 1557 & 98 of 2024