

IN THE COURT OF THE PRINCIPAL SESSIONS JUDGE, MADURAI.

PRESENT: THIRU. M.THANDAVAN, B.L.,

(I Additional District & Sessions Judge, Madurai)

PRINCIPAL SESSIONS JUDGE (i/c.) MADURAI.

(AUTHORISED U/S.10(3) OF CR.P.C.)

Thursday, this the 20th day of August -2020.

CrI.M.P.No.3733/2020

Chelladurai, S/o.Subbaiah

... Petitioner/Accused.

Vs

State through the Inspector of Police,

CBI P.S. Cr.No.8/2020

... Respondent/Complainant.

This petition taken up today for hearing at request through e.mail/ e.petition and after hearing the arguments of Thiru.N.Mohideen Basha, Advocate for the petitioner and of Thiru.M. Tamil Chelvan, the Public Prosecutor for the state over conference call, this court passed the following

Order

1. Bail application under section 438 of Cr.P.C.
2. The offences alleged are under section 302, 342, 201 r/w. 109 of IPC.
3. The defacto complainant/intervening petitioner has filed an intervening petition and he is permitted to assist the public prosecutor.

4. Heard both sides.

5. The case of the petitioner is that the petitioner was arrested on 20.6.2020 and he is in judicial custody for the past 62 days, the petitioner is arrayed as A6 in this case. He was working as Gr.I police in Sathankulam police station. The deceased died on 20.6.2020 in the hospital. The deceased was admitted in the prison on 20.6.2020 at 2.30 pm and after 5 hours, the deceased Bennicks had complained of palpitation and difficulties in breathing. The petitioner has no connection with the commission of offences falling u/s. 342,

302, 201 r/w. 109 of IPC. The required material evidences for the prosecution case have been collected, the petitioner is falsely implicated in this case, if the petitioner is released on bail, he will co-operate for investigation. It is alleged that two persons namely Jeyaraj and his son Bennicks were arrested and remanded into Sub Jail, Kovilpatti by Sattankulam Police in Cr.No.312/2020 on 19.6.2020 for the alleged offence u/s. 188, 269, 294(b), 353 and 506(ii) of IPC, the prisoners admitted into hospital for their sickness in Government Hospital, Kovilpatti and died, hence, Kovilpatti East Police Station registered F.I.Rs. In Cr.Nos.649/2020 and 650/2020 U/s. 176(1A) of Cr.P.C. for the death of the above said two persons respectively on the complaint of Superintendent of Sub Jail, Kovilpatti on 23.6.2020, in the meantime, Hon'ble High Court took suo-moto writ petition in W.P.(MD) No.7042/2020 and issued orders time to time, based on the orders of the Hon'ble High Court, CBCID took up the investigation in Cr.Nos.649/2020 and 650/2020 on the file of Kovilpatti East Police Station and re-registered two cases as CBCID Cr.No.1/2020 (in respect of Bennicks) and Cr.No.2/2020 (in respect of Jeyaraj) both u/s. 176(1)(1-A) of Cr.pc., thereafter, CBCID altered the offences u/s. 302, 342 and 201 of IPC and arrested the petitioner and nine policemen. The investigation is almost over. The custody of the petitioner is no more required. The petitioner acted in accordance with the direction of his superiors, since the petitioner happens to be a constable. There is no overt act against this petitioner as per F.I.R and remand report. The petitioner was not in duty at the time of occurrence as alleged by the prosecution. The petitioner was relieved from the duty by the evening itself. Thereafter, the petitioner reported the duty only on the next morning. The petitioner has not involved himself in any occurrence as alleged by the prosecution and prays to grant bail to the petitioner.

6. It is argued by the Spl. Public Prosecutor for CBI case that the deceased died only on 22.6.2020. The CBI registered FIR on 7.7.2020 and took

the case for investigation only on 10.7.2020. Therefore, the petitioner is in custody for the past 40 days after the CBI taking the case for investigation. As per prosecution case, the petitioner caught hold the deceased at the time of occurrence. The petitioner along with other accused brutally tortured and caused death to the deceased persons. The petitioner and other accused assaulted the deceased persons with deadly weapons. Final Post-Mortem Certificate has been received, wherein it is stated that the deceased persons would have died due to the complications of blunt injuries sustained by them. If the petitioner is released on bail, he is able to influence the local people on taking advantage of his service in the police department. The petitioner may tamper the witness if he is released on bail. The investigation has not yet been completed. If the petitioner is released on bail, it would affect the investigation by the CBI. Therefore, it is strictly objected on the part of the respondent, to release the petitioner on bail in both cases.

7. The learned counsel for the intervene petitioner would submit that the intervener is the mother of the deceased Bennicks. The matter was listed before the Hon'ble High Court under the writ petition wherein the respondent pleaded that the investigation yet to be over and it is in crucial stage. The matter has been adjourned to 7.9.2020 for filing further report. The accused in this case have gone to the extension of threatening the Magistrate who conducted the inquest. Further, he adopted all the objections raised by the Spl Public Prosecutor for CBI cases.

8. Further, the learned counsel for the petitioner pointed out that the petitioner is only police constable and he is not a police officer. The petitioner is ready to obey condition imposed by this Court and he is ready to co-operate for investigation. In reply, the learned Spl. Public Prosecutor argued that the petitioner has also committed the offence along with other accused. The statement of the witnesses against the petitioner.

9. A careful perusal of the records and the arguments of both sides indicates that the investigation is in crucial stage. The learned Spl. public prosecutor for CBI Cases argued that if the petitioner is released on bail, he would tamper the witness, is also sustainable. It is obvious on the part of the CBI to arrest some other persons also, in this situation, it is not advisable to release the petitioner on bail. Considering the fact that the investigation is not yet completed and considering the gravity of offence and strong objection on the side of prosecution, it is held that the petition deserves to be dismissed.

10. In the result, bail petition is dismissed.

Pronounced by me in Camp Court on the 20th day of August -2020.

Sd/-M.Thandavan,

Principal Sessions Judge (i/c.),Madurai.

Copy to

1. The Judicial Magistrate concerned.