

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2020

CORAM:

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

CrI.O.P.No.7209 of 2020

N.Deepak Raj ... Petitioner

Vs.

State Reptd. by

Inspector of Police

Guduvancheri Police Station,

Chengalpattu District.

... Respondent

PRAYER: This Criminal Original Petition filed under section 439 of Cr.P.C., seeking to enlarge the petitioner on bail in respect of the above Crime No.10 of 2020 on the file of the respondent police.

For Petitioner : Mr.G.Arun

For Respondent : Mr.K.Prabakar

Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 06.01.2020 for the offences punishable under **Sections 341 & 302 IPC @ 341, 302, 147, 148 & 120(B) of IPC in Crime No.10 of 2020** on the file of the respondent police, seeks bail.

2. The petitioner has voluntarily surrendered on 06.01.2020. This Court had already granted interim bail on 15.04.2020 and subsequently, it was extended on 04.06.2020.

3. The learned counsel for the petitioner would submit that the petitioner had surrendered on 06.01.2020, this Court had granted interim bail on 15.04.2020. Though even on that day 90days had lapsed, this Court considering the fact that the question of extending the time beyond 90days was pending before the Hon'ble Apex Court had granted interim bail for a period of six weeks, thereafter, the interim bail had been extended on 04.06.2020. Subsequently, the issue of extension of time for filing the final report has been settled by the Hon'ble Apex Court in **Crl.A.No.452 of 2020 dated 19.06.2020** in the case of **S.Kasi v. State through the Inspector of Police, Samaynallur Police Station, Madurai District**. He would further submit that even till date the charge sheet has not been filed and thereby the petitioner is also entitled to bail by default on regular basis as per mandate under Section 167(2). Further, he would submit that the petitioner is prepared to furnish adequate surities for his before the concerned magistrate Court.

4. The learned Additional Public Prosecutor would submit that the petitioner is a habitual offender involved in very serious cases. He would further submit that final report has not been filed in this case.

5. Heard both sides.

6. The Hon'ble Supreme Court in **Crl.A.No.452 of 2020 dated 19.06.2020** in the case of **S.Kasi v. State through the Inspector of Police, Samaynallur Police Station, Madurai District** while referring to the earlier decisions regarding default bail has held hereunder :

“14. The scheme of Code of Criminal Procedure as noticed above clearly delineates that provisions of Section 167 of Code of Criminal Procedure gives due regard to the personal liberty of a person. Without submission of charge sheet within 60days or 90days as may be applicable, an accused cannot be detained by the Police. The provision gives due recognition to the personal liberty”.

7. The petitioner had surrendered on 06.01.2020. Even on 15.04.2020, the petitioner had enured the benefit of statutory bail. However, since, the issue relating to extention of time for filing charge sheet was pending before the Hon'ble Apex Court, this Court had granted interim bail only. The issue stands settled by the Hon'ble Apex Court now in **Crl.A.No.452 of 2020** dated 19.06.2020 in the case of **S.Kasi** (cited supra). In this case on hand, the final report has not been filed till date. The petitioner had been in jail for about 100 days.

8. In view of the same, the interim bail granted on 15.04.2020 and extended on 04.06.2020 is made absolute, subject to the following conditions :-

[a] the petitioner shall furnish **two sureties for a sum of Rs.10,000/- (Rupees ten thousand only)**, before the Judicial Magistrate-II, Chengalpattu within a period

of two weeks from the date of lifting of lock down and the commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically;

[b] 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.

[c] the petitioner shall report before the respondent police on every Monday at 10.30 a.m., until further orders.

[d] the petitioner shall not abscond either during investigation or trial.

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

8. With the above direction, the criminal original petition is ordered.

23.06.2020

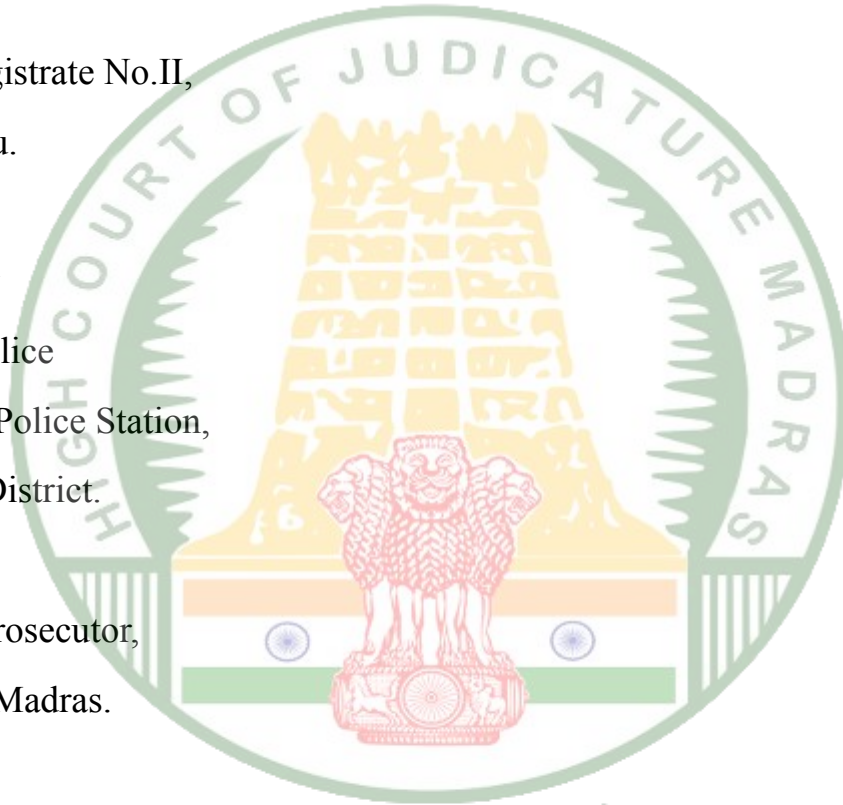
To

1. Judicial Magistrate No.II,
Chengalpattu.

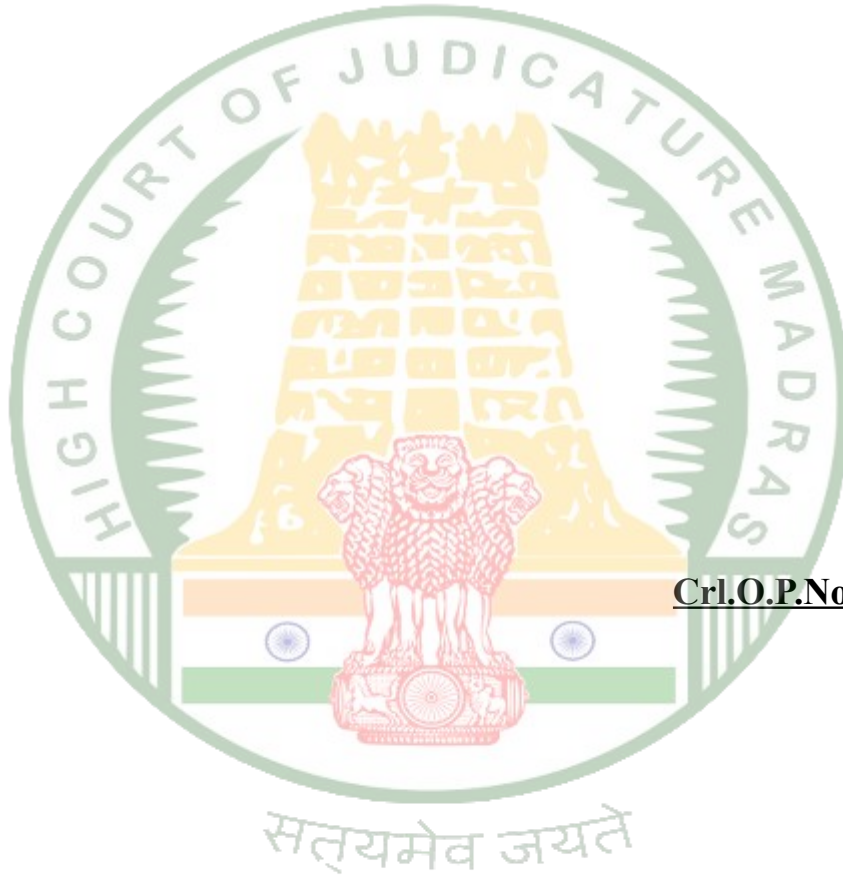
2.State Rep. by
Inspector of Police
Guduvancheri Police Station,
Chengalpattu District.

3.The Public Prosecutor,
High Court of Madras.

4. The Superintendent of Central Prison
Puzhal.



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