

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:21.05.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.7736 of 2020

Luna @ Karthikeyan

... Petitioner

Vs.

State Rep. by,
The Inspector of police,
Vadalur Police Station,
Cuddalore District.
(Crime No. 294 of 2019)

...Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C., to enlarge the petitioner on bail concerned in Crime No.294 of 2019 pending on the file of the respondent.

For Petitioner: Mr.B. Balamurugan,

For Respondent: Mr. S. Karthikeyan,
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 20.11.2019, for the alleged offencespunishable under Sections147, 148, 307 and 302 of IPC in Crime No.294 of 2019 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner along with other accused planned, assaulted and murdered the deceased by name Amaran @ Amarnath in order to wreck vengeance for the murder of One Murali, who is the brother of A1 namely Parthiban.Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is arrayed as A9 in this case in Crime No.294/2019 and he was arrested and remanded to judicial custody from 20.11.2019. The deceased Amaran @ Amarnath is a rowdy element.In the year 2017, the said Amarnath was arrayed as an accused in Crime No.33/2017 and was arrested for committingmurder of one Murali, who is the brother of A1 in this case. Since,the petitioner is the friend of A1,he has been falsely implicated in this case as an accused and he has not committed any offence as alleged by the prosecution.Even according to the case of the prosecution, the petitioner has no specific overt-act.Only in order to get illegal gain from the petitioner, the defacto complainant has foisted a false case as against the petitioner. Hence, he seeks bail for the petitioner.

4. The learned Additional Public Prosecutor (CrI. Side) would submit that it is a case of retaliation. In the year 2017, the deceased Amaran @ Amarnathwasarrayed as an accused in Crime No.33/2017 registered by the D.Nagar Police Station, Pondicherry for committing murder of one Murali, who is the brother of A1 in this case. Therefore the petitioner along with others planned and murdered the deceased as retaliation. Insofar as the petitioner is concerned, he is part of the rowdy group involved in the offence. He would further submit that the investigation is completed and charge sheet filed which is pending in PRC No.3/2020. He added that the petitioner has got one more case of similar in nature. Hence, he opposed for grant of bail to the petitioner.

5. Considering the above facts and circumstances and also the period of incarceration by the petitioner from 20.11.2019, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(a) the Petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the concerned prison in which the Petitioner has been confined on his release;

(b) thereafter, the Petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the concerned Magistrate on or before 01.07.2020, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d) the Petitioner shall not commit any offences of similar nature;

(e) the Petitioner shall not abscond either during investigation or trial;

(f) the Petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) the petitioner shall report before the respondent police as and when required for interrogation.

(h) 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];

(i) if the accused thereafter absconds, a fresh F.I.R. can be registered under Section 229A I.P.C.

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-

21/05/2020

This order, on being produced, be punctually observed and carried into execution by all concerned
TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, KURINJIPADI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
VADALUR POLICE STATION,
CUDDALORE DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

CC to M/S. B.BALAMURUGAN Advocate on payment of necessary charges

CRL OP.7736/2020

Date :21/05/2020

RVR 24/08/2020

WEB COPY