

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.05.2020

CORAM:

THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

CRL.O.P.No.7598 of 2020

Kuthirai Suresh @ Sureshkumar

... Petitioner

Vs.

The State, Rep by
Inspector of Police,
Arakkonam Town Police Station,
Vellore District.
Crime No.277 of 2015

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., praying, to enlarge the petitioner on bail pending trial in S.C.No.34 of 2020 on the file of the II-Additional District & Sessions Court, Vellore at Ranipet, in Crime No.277 of 2015 pending on the file of the respondent police.

For Petitioner : Mr.MA.P.Thangavel

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 02.11.2019 for the offence punishable under Sections 147, 148, 341, 294(b), 307, 302, 364, 120(b) r/w 149 of IPC, in Crime No.277 of 2015 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the final report was laid and the case was taken on file by the learned Judicial Magistrate, Arakkonam in PRC No.12 of 2017 on 18.09.2017. The learned Judicial Magistrate has caused service of summons to all the accused persons through police and except three, accused all other accused persons have appeared. The present petitioner (A9) is one of the accused person, who did not appear. Therefore, NBW was issued and the petitioner was secured on 02.11.2019. Subsequently, the case was split up as against A8 on 08.11.2018 in PRC No.22 of 2019. Since A8 was also absconding for a long time, in the impugned order, the learned Sessions Judge, has declined to grant bail, solely on the reasons that the petitioner is absconding for a long time.

3. The learned counsel for the petitioner would submit that the petitioner was arrested in some other case and he was confined and that the NBW was known to the respondent. Thereafter, the NBW was issued on 27.11.2018, which was executed on 02.11.2019 and the reason for delay is not on the part of the petitioner. He would further submit that the petitioner not at all involved in the above alleged offence and in the initial stage of FIR, the petitioner was

not arrayed as accused person and subsequently, the police threatened the petitioner under guise of the old case against him and got confession statement by threatening forcibly and falsely implicating him as A-9 in the charge sheet. He would further submit that there is a dispute between the deceased and other accused and moreover the occurrence took place due to their own personal enmity, the petitioner no way connected with the alleged offence as per the prosecution. Therefore, he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner was arrested and NBW issued in the year 2018 and the NBW had executed only on 02.11.2019. He would further submit that there are other four cases against the petitioner and the petitioner is a chronic offender, he had not appeared. Hence, he vehemently opposed to grant bail to the petitioner.

5. Taking into consideration the facts of the case and the submissions made by the learned counsel and also taking note of the fact that the period of incarceration by the petitioner, 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) each, before the Superintendent of the concerned prison in which the petitioner has been confined on his release;

(b) 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) 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]***.

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

22.05.2020

Internet : Yes / No

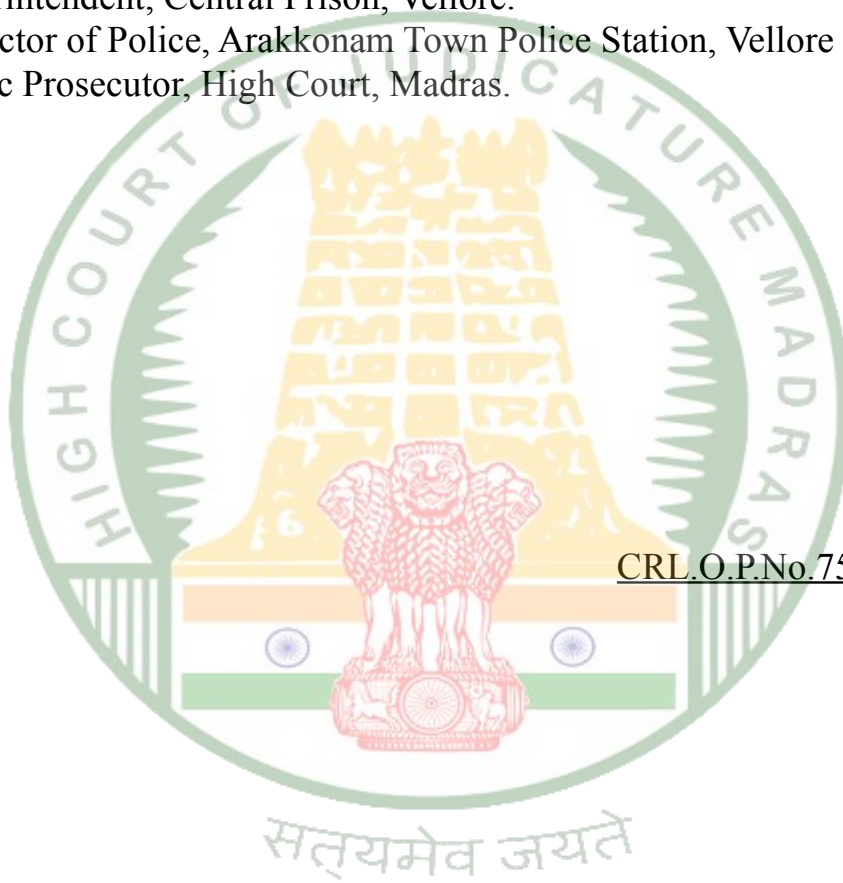
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M.NIRMAL KUMAR,J.

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To

1. The II-Additional District & Sessions Court, Vellore at Ranipet.
2. The Superintendent, Central Prison, Vellore.
3. The Inspector of Police, Arakkonam Town Police Station, Vellore District.
4. The Public Prosecutor, High Court, Madras.



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