

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.06.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.8420 of 2020

Pachaiyappan

.... Petitioner

Vs.

The State Repted by
Inspector of police,
R-5 Virugambakkam Police Station,
Chennai.
(Crime No.325 of 2020).

....Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C., to enlarge the petitioner/accused on bail inconnection with Crime No. 325 of 2020 on the file of the respondent police.

For Petitioner : Mr.M.Dhayalan

For Respondent :Mr.S.Karthikeyan

Additional Public Prosecutor

ORDER

The petitioner/A3 who was arrested and remanded to judicial custody on 05.05.2020 for the offence punishable under Sections 147, 148, 341, 294(b),323,307 of IPC in Crime No.325 of 2020 on the file of the

respondent police, seeks bail.

2. The case of the prosecution is that there are totally 7 accused in this case and the petitioner who is arrayed as A3, along with his friends waylaid the defacto complainant, abused in filthy language and also attacked him by using knife due to previous enmity as a result of which, the defacto complainant sustained serious injuries following which, he was admitted in hospital and taken treatment as in-patient. Hence, this complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he was not present in the scene of occurrence and that he did not attack the defacto complainant. Only based on the confession statement of co-accused, he has been falsely implicated in this case. Further, there is no overt-act attributed to the petitioner. He would further submit that the petitioner is in judicial custody from 05.05.2020 and therefore, he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner along with six others had assembled in a street. Due to previous enmity, on seeing the defacto complainant, these persons surrounded him and

indiscriminately attacked him by using knife due to which, the defacto complainant sustained serious injury and he was admitted in a hospital and treated as in-patient for 10 days. Hence, he vehemently opposed for grant of bail to the petitioner.

5. Taking into consideration the nature of allegations against the petitioner in the FIR and also taking note of the fact that the petitioner is in judicial custody from 05.05.2020, 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) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only), before the concerned Magistrate within a period of 15 days from the date of lifting of lockdown and commencement of regular functioning of Court below, 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 report before the respondent police as and when required for interrogation;

(e) the petitioner shall not commit any offences of similar nature;

(f) the petitioner shall not abscond either during investigation or trial;

(g) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(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 FIR can be registered under Section 229A IPC.

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

11.06.2020

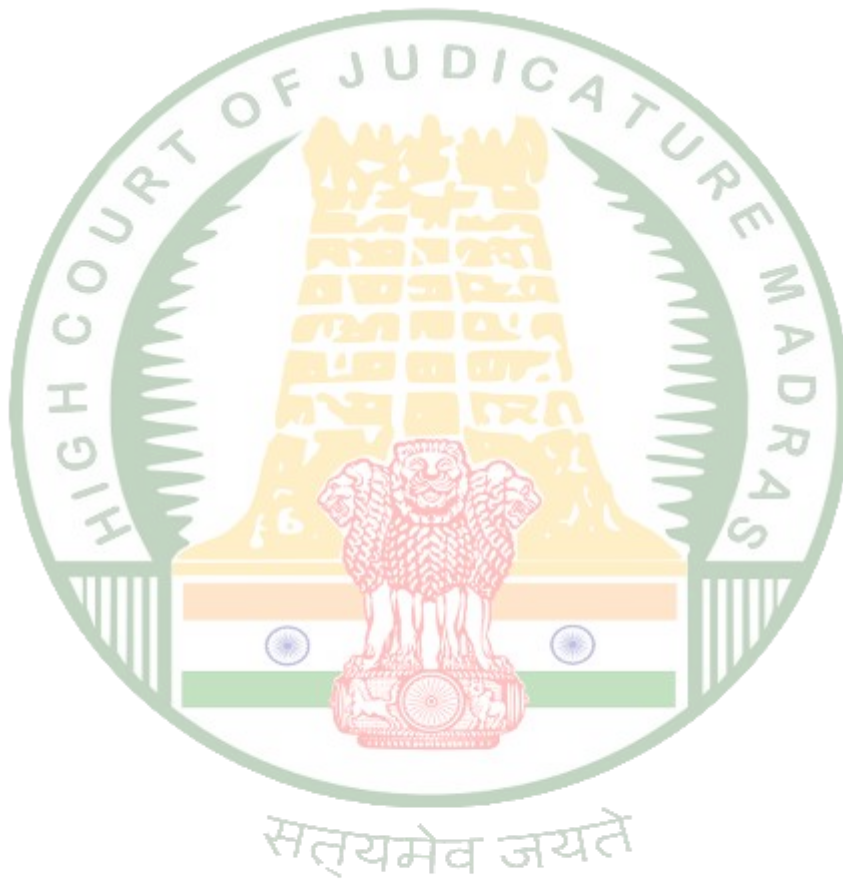
vsn

To

1. The XXIII Metropolitan, Magistrate,
Saidapet.
2. The Inspector of police,
R-5 Virugambakkam Police Station,
Chennai.

3.The Superintendent
Central Prison, Puzhal, Chennai.

4.The Public Prosecutor,
High Court, Madras.

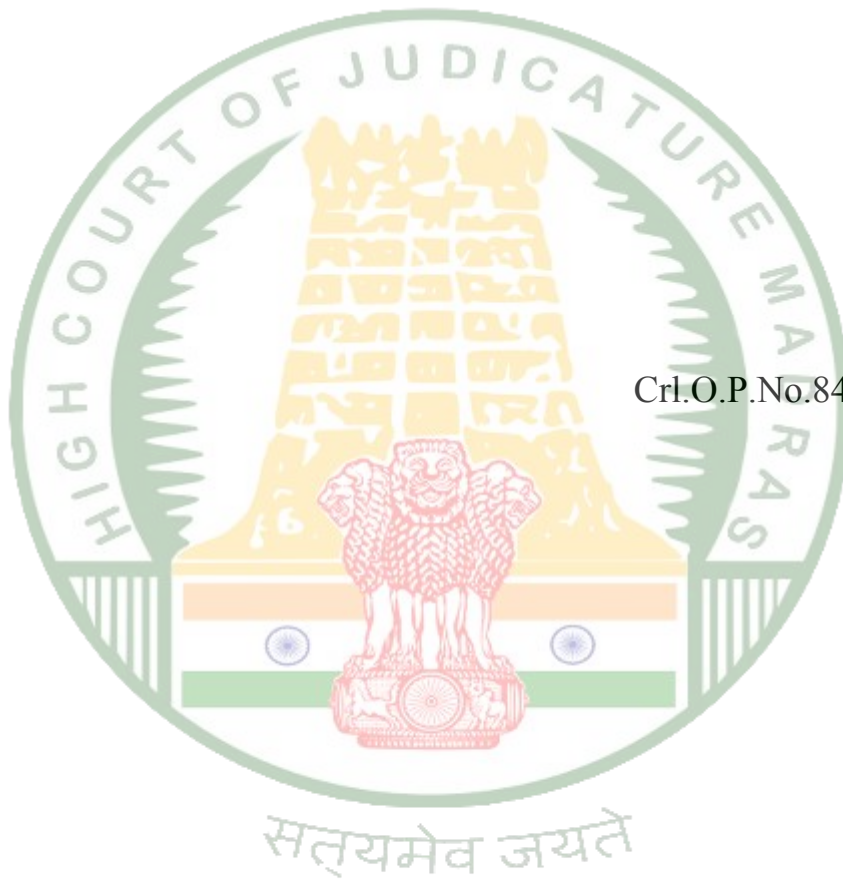


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M.NIRMAL KUMAR, J.

vsn



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