

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.8339 of 2020

Kalaiyammal

.... Petitioner

Vs.

State rep. by

Station House Officer,

Yelagiri Police Station,

Tirupattur District.

(Crime No.79/2013)

....Respondent

Prayer : Criminal Original Petition filed under Section 439 Cr.P.C., to enlarge the petitioner on bail in connection with the case in Crime No.79 of 2013 pending investigation on the file of the respondent police.

For Petitioner : M/s.Karan & Uday

For Respondent : Mr.S.Karthikeyan

Additional Public Prosecutor

ORDER

The petitioner who was arrested and remanded to judicial custody on 07.11.2019 for the offence under Sections 364, 302 of IPC r/w. Section 109 and 120 (B) of IPC, in Crime No.79 of 2013 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner is A2 conspired with A1, had kidnapped and murdered the deceased. Thereafter, on completion of investigation charge sheet was filed in S.C.No.10 of 2020 before the learned III Additional District and Sessions Judge, Vellore, Thirupattur.

3. The learned counsel for the petitioner submitted that the case is of the year 2013, the petitioner was granted bail and thereafter the petitioner was not aware of the pendency of the case. The learned counsel for the petitioner further submitted that the petitioner is working as a daily coolie and she has two children aged about 10 and 7 years respectively, she has been working various workplaces. The Court has not served any summons to her native place for the purpose of intimation of pendency of the case and thereafter NBW was issued on 07.07.2015 and the petitioner was arrested on 07.11.2019. Therefore, for the past six months she is under custody in jail. The learned counsel for the petitioner further submitted that earlier, the petitioner filed bail application in Crl.O.P.No.33749 of 2019 and the same was dismissed by this Court by order dated 18.12.2019 and issued directions to the trial Court to frame charges and dispose of the case within a period of three months from 18.12.2019. The trial could not proceed with the case and complete the same as directed by this Court due to lockdown for Covid-19.

4. On the other hand, the learned Additional Public Prosecutor submitted that the petitioner conspired with A1, A1 had availed cash loan from one person, since the said person insisted to repay the amount, to take revenge, the petitioner kidnapped the said person's son, who aged about 5 years and murdered. A case was registered and after investigation, it was found that the petitioner had abetted and subsequently conspired with A1 in commission of offence, after investigation charge sheet has been filed and taken on file in S.C.No.10 of 2020. The petitioner has absconded from the year 2013 and the NBW was issued on 07.07.2015 and arrested by the respondent police on 07.11.2019.

5. Considering the rival submission made by either side and considering the fact that the petitioner was charged for the offence under Sections 109 and 120(B) of IPC and she has conspired with A1; further, the petitioner is a mother of two children aged about 10 and 7 years and a collie by occupation and considering the fact that the period of incarceration by the petitioner is more than 216 days, 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.

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.

[c] 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.

[d] the petitioner shall report before the respondent police as and when required for interrogation.

[e] the petitioner shall appear before the trial Court during every hearing date without fail.

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

[g] the petitioner shall not abscond 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 petitioners 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 underSection229AIPC.

सत्यमेव जयते

11.06.2020

Internet: Yes/No
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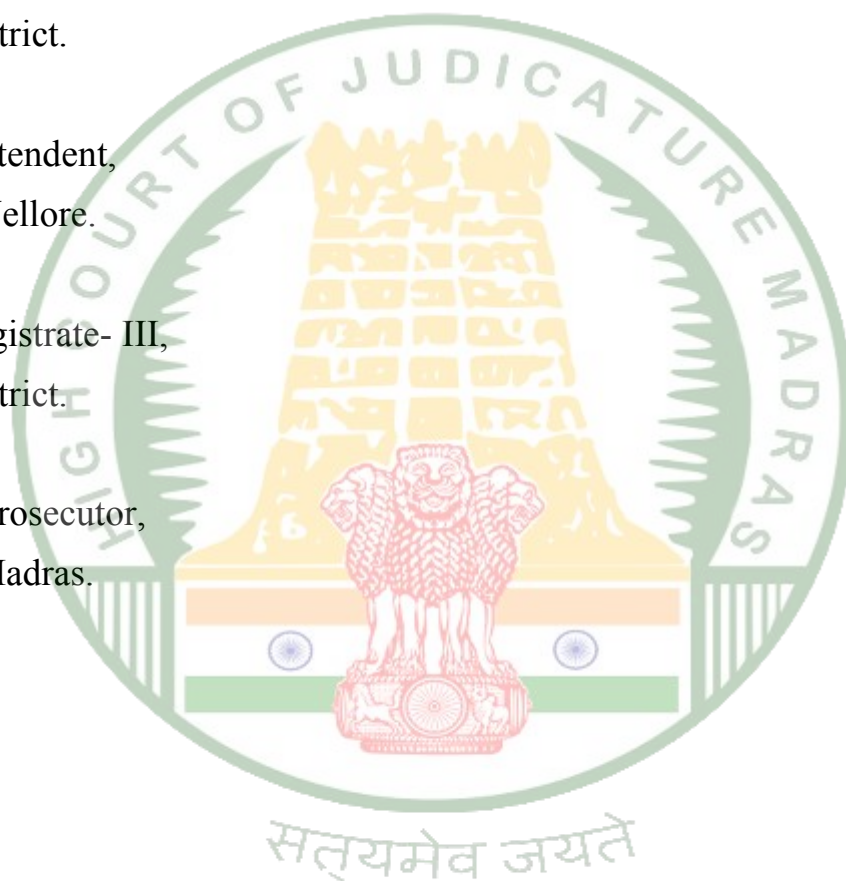
To

1. The Station House Officer,
Yelagiri Police Station,
Tirupattur District.

2. The Superintendent,
Central Jail, Vellore.

3. Judicial Magistrate- III,
Tirupattur District.

4. The Public Prosecutor,
High Court, Madras.

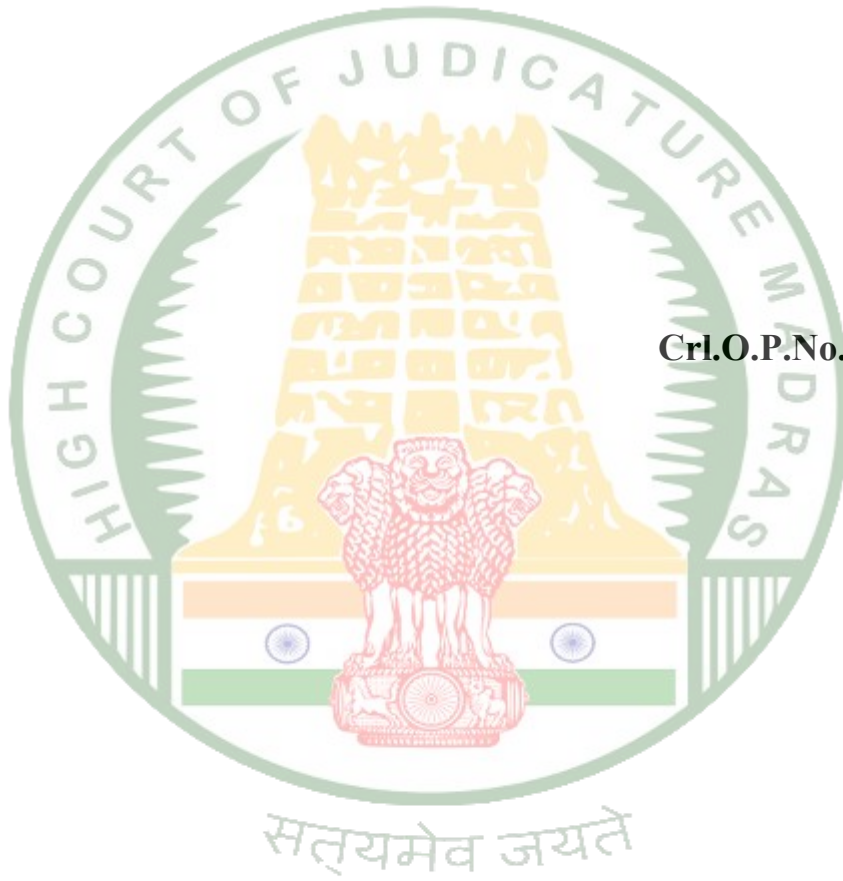


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