

IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED 12.06.2020

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.8357 of 2020

(Heard through video conferencing)

Athiban Boss

.... Petitioner

VS

State by

Inspector of Police,
Sathuvachari Police Station,
Vellore District.

Crime.No. 65/2014.

... Respondent

Prayer:- This Criminal Original Petition has been filed under Section 439 Cr.P.C., to to enlarge the petitioner on bail in S.C No.69 of 2018 on the file of the I Additional District and Sessions Judge, Vellore, Vellore District, pending trial and thus render justice.

For Petitioner : Mr.G.Vinodhkumar

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

ORDER

The petitioner was charged for the offence under sections 147, 148, 294(b), 364, 302 and 201 r/w 149, 109 of IPC in Crime No. 65 of 2014 by the respondent police. The charge sheet was filed and the case was numbered as S.C.No.69 of 2018 on the file of the I Additional District and Sessions Judge, Vellore, Vellore District, and the case is pending trial. Seeking bail, the petitioner is before this Court with

this Criminal Original Petition.

2.The case of the prosecution is that, the delacto complainant's son was running a cell phone recharge shop. On 19.02.2014 at about 08.30 pm, the petitioner along with the other accused persons came to the shop of the defacto complainant's son. By brandishing a knife, the accused threatened and abducted the deceased in their car. The said occurrence was seen by the opposite shop owner and he informed the same to the defacto complainant and further he informed that there were 3 persons in the car. When the defacto complainant was in search of his son along with the others, the deceased was lying dead by having slit on his neck. Hence, the present case has been lodged.

3.The petitioner submits that now the charge sheet was laid and the case was numbered as S.C.No.69 of 2018 and pending before the learned District and Sessions Judge, Vellore, Vellore District. After that the petitioner was arrested in connection with Crime No.62/2020 on 08.02.2020, he was unable to appear before the I Additional District and Sessions Judge, Vellore on 21.02.2020 and NBW was issued. At the time of releasing from jail for Crime No.62/2020, the police was arrested the petitioner in the outside of the prison itself on 14.03.2020, in respect of the present case.

4.The contention of the petitioner is that, he was granted bail in Crime No.65 of 2014 with the condition to regularly appear before the respondent Police and before the Committal Court. After completion of investigation, he has been regularly appearing before the Committal Court and only on one hearing, he could not able to appear before the trial Court since he was arrested and remanded to judicial custody in connection with Crime No.62 of 2020.

5.The learned Additional Public Prosecutor appearing for the State would submit that the petitioner was arrested on 14.03.2020 in connection with the present case and he is a notorious person and having involved in heinous crime. If he comes out on bail, definitely, he will abscond and the trial in the Sessions Court would be stalled. Hence, he vehemently oppose for grant of bail to the petitioner.

6.Considering the above facts and circumstances of the case and on perusal of the material, the petitioner was originally granted bail in Crime No.65 of 2014 and he has been regularly appearing before the Investigating Officer as well the Committal Court. On 21.02.2020 NBW was issued against the petitioner for his non appearance. On that day, the petitioner was arrested and suffering confinement in connection with the case in Crime No.62 of 2020. Hence, the non appearance of the petitioner before the trial Court is only due to confinement in Crime No.62 of 2020.

7.Taking into consideration of the above facts and circumstances of the case, this Court is inclined to grant bail to the petitioner with the following conditions:-

(a)The petitioner is ordered to be released on bail on executing 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) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lock down 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 Impressions in the surety bonds and the learned Magistrate may obtain copy of their Aadhar Cards or Bank Pass Books to ensure their identity;

(d) The petitioner is directed to appear before the trial court on all hearing dates either in person or through his counsel and in any case, he should not be the reason for stalling of the trial;

(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;

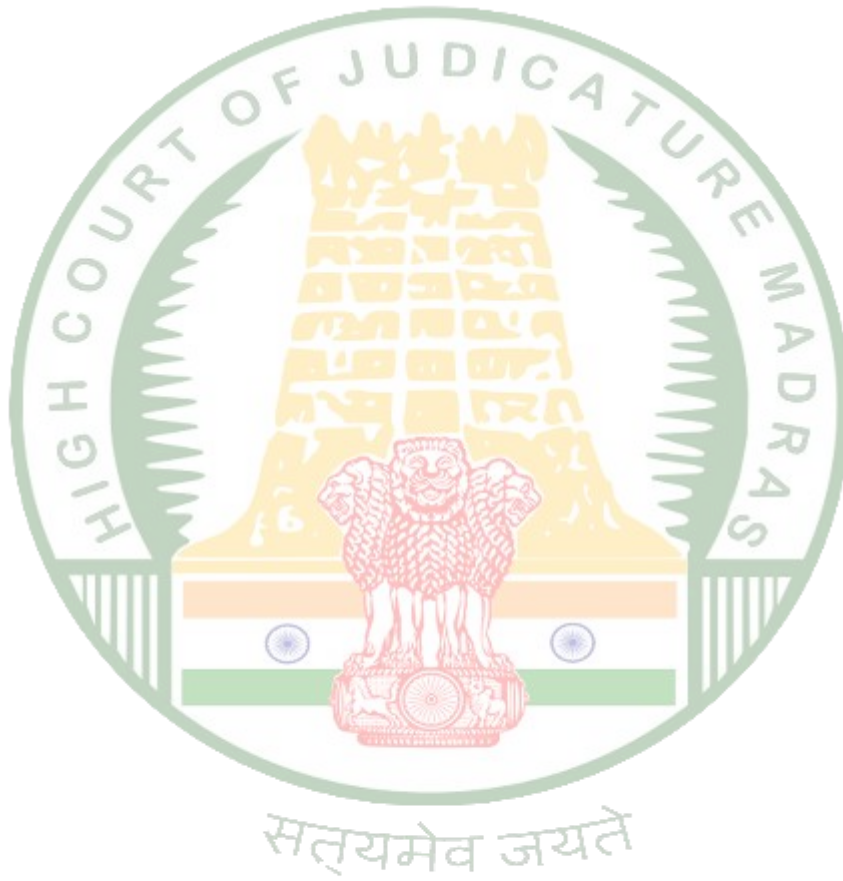
(h)on breach of any of the aforesaid conditions, the learned Magistrate / Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down 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 I.P.C.,

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

12.06.2020

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M.NIRMAL KUMAR.J.,

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To

1.The Judicial Magistrate No.V,
Vellore.

2.The Superintendent,
Central Prison, Vellore.

3.The Public Prosecutor,
High Court, Madras.

4.Inspector of Police,
Sathuvachari Police Station,
Vellore District.



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