

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2020

CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

Crl.O.P.Nos.8417 & 8558 of 2020

Moorthy

... Petitioner in Crl.O.P.No.8417 of 2020

1. Deva @ Devaraj
2. Sathya @ Siva Perumal
3. Kumar @ Krishnakumar
4. Vikki @ Vikneshwar

...Petitioners in Crl.O.P.No.8558 of 2020

-vs-

The State of Tamil Nadu
The Inspector of Police
Vadalur Police Station,
Cuddalore District.

... Respondent in both Crl.OPs.

COMMON PRAYER:- Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the Petitioners on bail in Crime No.294 of 2019 pending investigation on the file of the Respondent Police.

For Petitioners : Mr.M.Guruprasad
(in Crl.O.P.No.8417 of 2020)
M/s B.Balamurugan
(in Crl.O.P.No.8558 of 2020)

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor
(in both Crl.O.Ps.)

COMMON ORDER

The petitioners, who were arrested and remanded to judicial custody from 20.11.2019 for the offence punishable under Sections 147, 148, 307, 302, 120(B), 324 of IPC, in Crime No. 294 of 2019 on the file of the Respondent Police, seek bail.

2. The case of the prosecution is that the informant is the brother in law of the deceased Amar @ Amarnath. The deceased and two of his aide viz.Senthilkumar and Sundar murdered had one Murali two years ago and the deceased was facing a criminal case. It is stated in the first information report that deceased was acquitted by the Court and that the informant along with his father in law, frined Bala and Driver went to the Prison to pick up the deceased in Tevera car bearing Register No. TN 22 CH 9857, After picking him up from the Kalapattu prison in Puducherry at 6.30 pm, the deceased and others were returning home, they reached Vadalur at about 8.40 pm and

stopped the vehicle near a liquor shop to purchase liquor. At about 9.00 PM, the accused persons came in four motor cycles and they started attacking deceased with deadly weapons in which, the informant and his father in law sustained injuries and that the deceased who was indiscriminately attacked succumbed to injuries at the scene of occurrence itself.

3. The complaint was lodged on the same day and three persons were named in the First Information Report. The petitioners were not a named accused in the First Information Report. Later, after the commencement of investigation, the petitioners were arrayed as accused and they were arrested on 20.11.2019. The Investigating Agency completed the investigation and laid charge sheet and the same was taken on file in PRC.No. 3 of 2020 by learned District Munsif cum Judicial Magistrate, Kurinjipadi.

4. The contention of the petitioners in CrI.O.P.Nos.8417 and 8558 of 2020 Submitted that the petitioners' names do not find place in the FIR. The petitioners were arrested on 20.11.2019. The petitioners have been arrayed as accused on the confession of the co-accused and they have not committed any offence as alleged by the prosecution. He further submitted the petitioners had been shown as accused on the premise that the petitioners are the friends of Murali who was murdered by the deceased earlier.

5. The learned Counsel for the petitioner in CrI.O.P.No.8417 of 2020 submitted that the petitioner has been hospitalized at Cuddalore Government Hospital. He is a diabetic patient and he has urinary tract infection also. His pancreas has been damaged heavily and he is undergoing dialysis. The deadly virus Corona is making a direct attack on patients who are prone to ailments and that he is more vulnerable to the corona virus in view of his present health condition. He also annexed the medical reports in support of his submission and submitted that the petitioner's present physical condition and his vulnerability towards Covid-19, has prompted him to file this present bail application. Hence, he seeks for grant of bail to the petitioners.

6. The Additional Public Prosecutor submitted that it is the case of return. In the year 2017, the deceased Amaran @ Amarnath was arrayed as an accused in Crime No.33 of 2017 by Nagar Police Station, Puducherry for committing murder of one Murali who is the brother of A1 in this case. The petitioner in retaliation planned and murdered the deceased. They have followed the deceased from Pondicherry and when the car was stopped at Vadalur near a wineshop. The petitioner attacked the deceased. The defacto complainant and father in law of the defacto complainant are eye witnesses in this case. The investigation came to be completed. The charge sheet has been filed, which is pending in PRC.No. 3 of 2020 learned Judicial Magistrate, Vadalur. Hence, he opposed for grant of bail to the Petitioners.

7. Taking into consideration the nature of allegations against the petitioners in the FIR and also taking note of the fact that the petitioners are in judicial custody from 20.11.2019, this Court in

inclined to grant bail to the petitioners, subject to the following conditions:

(a) The petitioners 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 petitioners have been confined on their release;

(b) the petitioners 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 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 petitioners shall stay at Madurai and report before the Inspector of Police, Vilathikulam Police Station, daily at 10.30 a.m. for a period of two weeks and thereafter report before the respondent police as and when required for interrogation;

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

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

(g) the petitioners 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 petitioners 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 under Section 229A IPC.

6. With the above directions, this Criminal Original Petitions are ordered.

-sd/-

19/06/2020

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

TRUE COPY

TO

1 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
KURINJIPADI.

2 JUDICIAL MAGISTRATE,
VADALUR.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

5 INSPECTOR OF POLICE,
VADALUR POLICE STATION,
CUDDALORE DISTRICT.

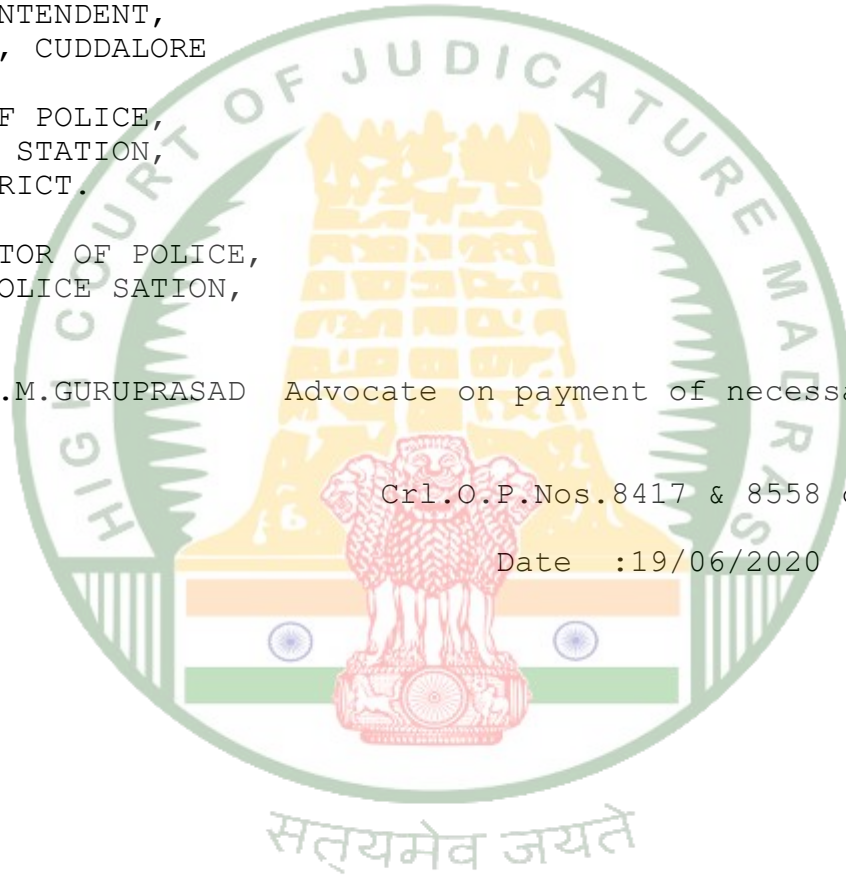
6 THE INSPECTOR OF POLICE,
VILATHIKULAM POLICE STATION,
MADURAI

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

CrI.O.P.Nos.8417 & 8558 of 2020

Date :19/06/2020

RVR 29/09/2020



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