

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.06.2020

CORAM

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

Crl.O.P.No.8833 of 2020

T.Hussain @ Mohamed Uzen

... Petitioner

Vs.

State Rep. by

The Inspector of Police,

Arakkonam Town Police Station,

Arakkonam, Vellore District.

Cr. No.473 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail pending investigation in Crime No.473 of 2020 on the file of the respondent police.

For Petitioner : Mr.S.Sankar

For Respondent : Mr.C.Iyyappa Raj

Additional Public Prosecutor

ORDER

The Petitioner, who was arrested and remanded to judicial custody on 29.05.2020 for the alleged offence punishable under Section 399 of IPC in Crime No.473 of 2020, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 29.05.2020, the respondent police had received a complaint from one Hariprasad stating that while he was jogging near railway station, the petitioner along with four others was planning to commit dacoity and were in possession of deadly weapons based on which, the accused were called for enquiry subsequent to which, they were arrested.

3. The contention of the learned Counsel for the petitioner is that the petitioner has been falsely implicated in this case and he was not part of any group which made preparation for dacoity. He further submitted that the petitioner was at his house when the defacto complainant is said to have seen him at the Scene of Occurrence. In fact the petitioner had left his home only at 9.30 a.m. to proceed to his foot wear shop. At that time, he was called for enquiry and thereafter was arrested by the respondent police. He further submitted that the petitioner does not know the other accused in this case and

the petitioner has been suffering incarceration from 29.05.2020. Hence, seeks for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor Submitted that the petitioner is arrayed as A5. The petitioner along with others was preparing to commit dacoity and on information received from the defacto complainant, the accused person were arrested in this case. He further submitted that A1 and A2 have previous cases and that there is no previous case as against the petitioner. However, he opposed for the 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 there is no previous case against the petitioner and considering the period of incarceration by the petitioner from 29.05.2020, 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) 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 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.

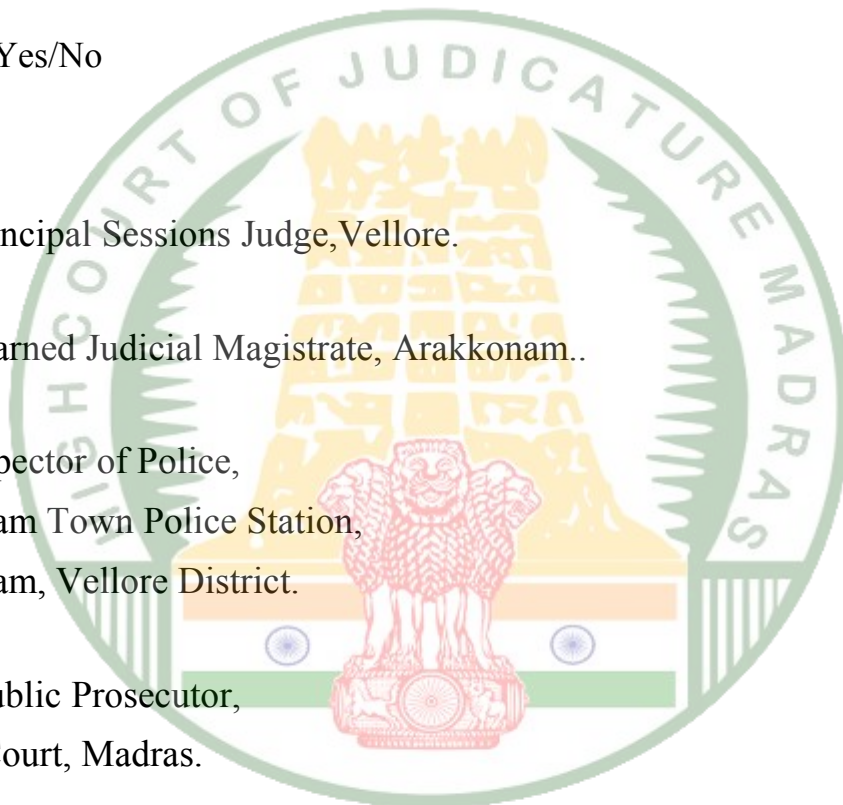
17.06.2020

Internet: Yes/No

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To

1. The Principal Sessions Judge, Vellore.
2. The learned Judicial Magistrate, Arakkonam..
3. The Inspector of Police,
Arakkonam Town Police Station,
Arakkonam, Vellore District.
4. The Public Prosecutor,
High Court, Madras.
5. The Superintendent,
Central Prison, Vellore.



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M.NIRMAL KUMAR, J.

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