

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2020

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.10470 of 2020

Prathaf Petitioner

Vs.

State rep. by,
The Inspector of Police,
Vellore North Crime Police Station,
Vellore District.
Crime No.229 of 2019 Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of the Code of Criminal Procedure, to enlarge the petitioner on bail in Crime No.229 of 2019 pending on the file of respondent police.

For Petitioner : Mr.P.S.Amalraj

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

ORDER

The petitioner arrested and remanded to judicial custody in Crime No.229 of 2019 for the offence under Section 294(b), 341, 392, 397 and 506(ii) seeks bail.

2.The case of the prosecution is that the defacto complainant Bhawarlal who is from Rajasthan settled in Vellor Town having two tractor and trailers, supplying water to the lodges in Vellore. One Abdulla/A1 used to threaten him and extort money from him. Two days prior to the occurrence on 10.06.2019, A1 threatened the defacto complainant to part with money, otherwise he would not be allowed to carry on his business. On 10.06.2019 at about 04.30 p.m., when the defacto complainant was proceeding in his tractor via Vellore-Arcot Road, near LIC office, A1 restrained the defacto complainant, threatened him by using abusive words, showing knife and attacked him, due to which he sustained injuries on the left hand. When the defacto complainant raised alarm, people rushed to the scene. At that time, A1 scratched the knife on the road and created spark, thereby deterring the public and they ran helter-skelter and traffic came to a standstill. A1 took away Rs.10,000/- from the defacto complainant. Hence, he lodged a complaint at about 05.30 p.m., against A1. A1 was arrested in this case on the same day at about 09.15 p.m., who admitted the offence. From his confession, it is seen that A1 had committed the offence on the instruction of the petitioner.

3.The learned counsel for the petitioner submitted that the petitioner has been falsely implicated in this case for statistical purpose and to detain him under Goondas. He further submitted that in FIR the name of the petitioner does not find place. The petitioner was shown arrest in this case on 11.05.2020. The petitioner was very much available in Vellore from 10.06.2019. Only after the petitioner was arrested in Crime No.105 of 2020 on 11.05.2020, he has been falsely implicated in this case. During his arrest in Crime No.105 of 2020, the petitioner was badly beaten and sustained injuries on his right ankle and left hand, for which he took treatment in Government Hospital, Vellore. The petitioner is in confinement from 11.05.2020 for more than 61 days and health condition is such that the petitioner needs aid to move around even for his daily chores. The petitioner studied BBA in St.Joseph College in Tiruchirapalli and due to the petitioner being implicated in one or other case his future has been jeopardised. The petitioner shall abide any condition and cooperate with the investigation.

4.The learned Additional Public Prosecutor submitted that A1 had restrained the defacto complainant, used abusive words, threatened him

by showing knife and attacked him, who sustained injuries on his left hand. When the defacto complainant raised alarm, people rushed to the scene, at that time, A1 scratched the knife on the road and created spark and the public ran away helter-skelter and traffic came to a standstill. A1 taken away Rs.10,000/- from the defacto complainant. The petitioner belongs to Gangster of Sasi @ Sasikumar group, who are creating havoc and terror in and around Vellore. The petitioner and the said Sasi @ Sasikumar are threatening the lodge owners and others in and around Vellore and extorting money. Further they have gang rivalry in the area. If the petitioner is released on bail, he would continue with his illegal activities. He further submitted that when the petitioner was arrested on 11.05.2020 in Crime No.105 of 2020, he attempted to flee, slipped and fell over the railway track and thereby sustained injuries. The investigation in this case is still pending. Hence, he opposed the bail application.

5.Considering the facts and circumstances of the case and taking into consideration that the petitioner has been severely injured on his right ankle and left hand and taking treatment for the same and he is on

bail in cases referred by the prosecution, the petitioner is in confinement for more than 61 days, this Court is inclined to grant bail to the petitioner, subject to the following conditions:-

(i)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;

(ii)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;

(iii)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;

(iv)The petitioner shall report before the respondent police daily at 10.00 a.m., and 04.00 p.m., until further orders.

(v)The petitioner shall not commit any offences of similar nature;

(vi)The petitioner shall not abscond either during investigation or trial;

(vii)The petitioner shall not tamper with evidence or witness either during investigation or trial;

(viii)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]***.

(ix) 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.

10.07.2020

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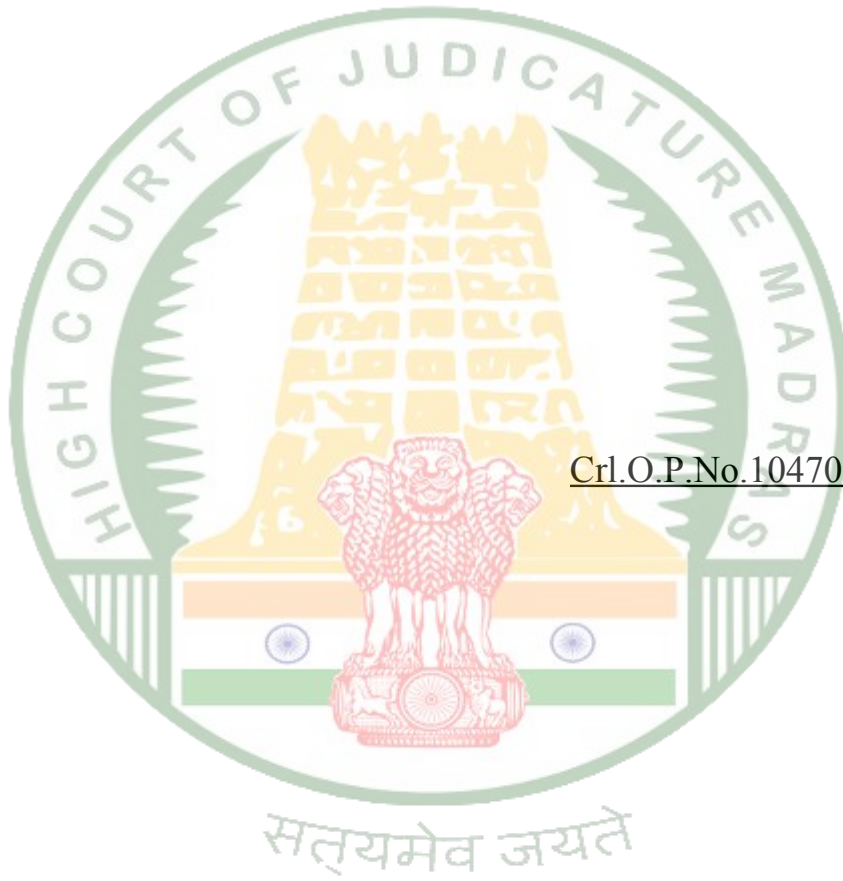
Index: Yes/No
Internet: Yes/No

To

1. The Judicial Magistrate No.IV,
Vellore.
2. The Central Prison,
Vellore.
3. The Inspector of Police,
Vellore North Crime Police Station,
Vellore District.
4. The Public Prosecutor,
High Court Madras.

M.NIRMAL KUMAR, J.

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