

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No. 10789 of 2020

Mohan Raj

... Petitioner/3rd Accused

Vs.

The State represented by,
The Inspector of Police,
Melmaruvathur Police Station,
Kancheepuram District.
(Crime No.819 of 2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to release the petitioner on bail pending investigation in Crime No.819 of 2020, on the file of the respondent police.

For Petitioner : Mr.G.Magesh Kumar

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (CrI. Side)

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 30.05.2020 for the offences punishable under Sections 294(b), 323, 302 of IPC read with Section 4 of Tamil Nadu Prohibition of Harassment of Women Act in Crime No.819 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the de-facto complainant is that on 29.05.2020, there was a wordy quarrel between her family members and the accused due to burning of garbage and on the same day at 7.00 p.m. the petitioner along with other accused persons have come to the house of the defacto complainant started a quarrel again and abused and assaulted the defacto complainant and her husband. Due to the same, the defacto complainant's husband had fallen down and sustained injury and died.

3 The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he was arrested on 30.05.2020. He would further submit that the petitioner is the neighbour of the defacto complainant and that there was a wordy quarrel due to burning of garbage behind the house and during the quarrel, there was a scuffle and that the defacto complainant's husband fallen down and sustained injuries and he was taken to hospital, where he was declared brought dead. He would further submit that absolutely there was no motive or intention to commit the murder and the incident had occurred only during the scuffle and there is no weapon used. He would submit that the other accused persons viz., Yuvarani & Mukesh were released on bail granted by this Court on 01.07.2020. He would further submit that the petitioner is prepared to comply with any stringent condition imposed by the Court and he prepared to stay away.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner and the defacto complainant are neighbours and that on 25.05.2020, there was a quarrel between the petitioner along with other accused persons and the family members of the defacto complainant. During the quarrel, the accused persons have fisted and assaulted the defacto complainant and her husband with the hands and the same resulted in death of the defacto complainant's husband. He would further submit that the investigation is pending.

5 Taking into consideration of the facts and circumstance of this case and also considering the fact that the petitioner is in jail from 30.05.2020, this Court is inclined to grant bail to the petitioner subject to the following conditions:-

(a) Accordingly, 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 and thereafter on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the learned Judicial Magistrate, Madurantagam, within 15 days from the date of lifting of the lock down and the commencement of the Court's normal functioning, 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 stay at Tindivanam and report before the Tindivanam police station everyday at 10.30 a.m. for a period of one week and thereafter on every Monday at 10.30 a.m., until further orders, the petitioner shall not enter into the jurisdiction of the respondent police /limits.

(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 Judicial 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.

-sd/-
20/07/2020
सत्यमेव जयते

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

WEB COPY
TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
MADURANTAKAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPET [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
MELMARUVATHUR POLICE STATION,
KANCHEEPURAM DISTRICT.

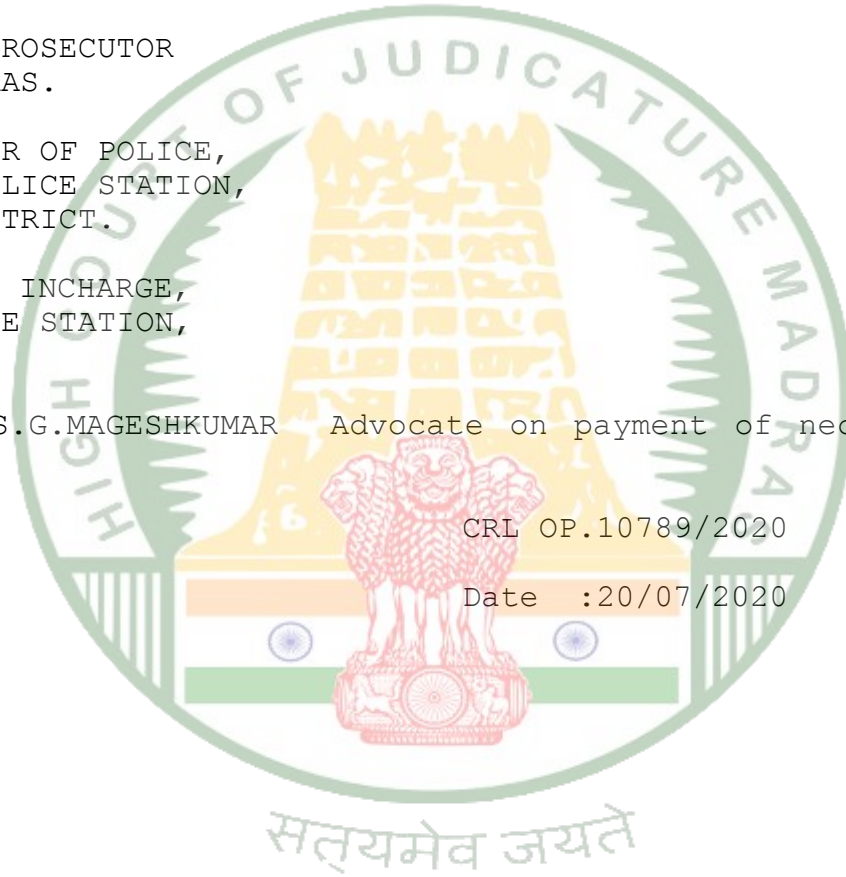
6 THE OFFICER INCHARGE,
TINDIVANAM POLICE STATION,
TINDIVANAM.

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

CRL OP.10789/2020

Date :20/07/2020

MK:17/08/2020



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