

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.07.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.11057 of 2020

MUTHURAJA

... Petitioner

Vs.

State Rep. by the Inspector of Police
Attur Town Police Station
Salem District
(Crime No.432 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.432 of 2020, pending investigation on the file of the Respondent.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. 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 15.06.2020 for the offences punishable under Section 294(b), 302, 307 and 109 IPC, in Crime No.432 of 2020, seeks bail.

2.The case of the prosecution as per the defacto complainant is that Tamilarasan / A1 borrowed a sum of Rs.15,000/- from his grandfather and a sum of Rs.5,000/- from the deceased and without repaying the same, he had issued Insolvency notice. When the father of the defacto complainant came to know that A1 had issued notice, he along with the defacto complainant and his friend had gone to the place of the accused to question him. During which time the petitioner who is the father of A1 had instigated A1 to attack them pursuant to which A1 had taken a machete and inflicted cut injuries on the father and the friend of the defacto complainant. Due to which, the father of defacto complainant died and the friend of the defacto complainant sustained injuries in the neck.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the son of the petitioner had borrowed a sum of Rs.15,000/- from the defacto complainant's grand father and a sum of Rs.5,000/- from the

deceased, due to which, there was a dispute. At that time, the defacto complainant along with his father and friend went to the house of the petitioner and created a problem, during which, the son of the petitioner A1 is stated to have inflicted injuries with machete. The only allegation against the petitioner is that he has instigated his son A1 to attack the victims, other than this, no averment is there against the petitioner.

4.The learned Government Advocate (Criminal Side) would submit that the defacto complainant's grandfather and father / deceased had lent a sum of Rs.15,000/-, Rs.5,000/- respectively to A1. A1 after borrowing had issued Insolvency notice, enraged by the said act, the defacto complainant along with his father and friend went to the house of the petitioner and questioned his son, at that time, A1 assaulted the deceased with machete resulting in the death of the father of the defacto complainant, who died on the same spot and his friend also sustained injuries. Investigation is pending.

5.Taking into consideration of the facts and circumstances, considering the submissions made by the learned counsels and also the period of incarceration suffered by the petitioner, 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 condition to 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 and thereafter on his release;

(b) the petitioner shall execute **two sureties for a sum of Rs.10,000/- (Rupees ten thousand only)**, before the learned Judicial Magistrate No.I, Attur, **within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier**, 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 Salem and report before the Salem Town Police Station everyday at 10.30 a.m. until further orders. The petitioner shall not enter into the jurisdiction limits of the respondent police.

(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 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 Petition is ordered.

-sd/-

28/07/2020

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

TRUE COPY

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

TO

1 THE JUDICIAL MAGISTRATE NO.I,
ATTUR.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
ATTUR TOWN POLICE STATION,
SALEM DISTRICT.

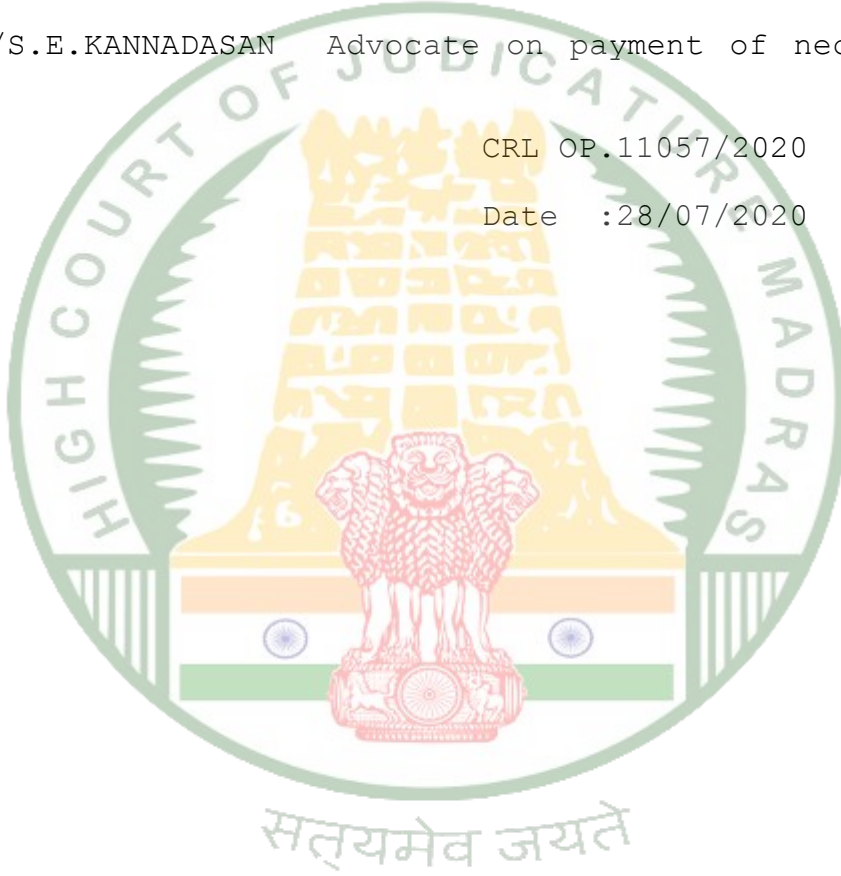
6 THE OFFICER INCHARGE,
SALEM TOWN POLICE STATION,
SALEM.

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

CRL OP.11057/2020

Date :28/07/2020

MK:20/08/2020



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