

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.08.2020

CORAM :

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

Crl.O.P.No.11441 of 2020

Joseph

... Petitioner

Vs.

The State Rep. by
The Inspector of Police
K-4, Anna Nagar Police Station
Chennai - 600 040.
(Crime No.378 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with the Crime No.378 of 2020, on the file of the Inspector of Police, K-4, Anna Nagar Police Station, Chennai.

For Petitioner : Mr. T. Padmanabhan

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 20.04.2020 for the offences punishable under Sections 147, 148, 294(b), 332, 324, 307, 506(II) IPC read with Sections 269, 297 IPC and Section 3 (1) of The Prevention of Damage to Public Property Act, 1984, in Crime No.378 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant one Kalaiyarasan is that he is working as an Assistant Engineer in Metropolitan Chennai Corporation, Zone-8, Chennai. One Dr.Simon, Senior Neurologist died due to Covid-19 at the night hours of 19.04.2020/20.04.2020. The officials of the Corporation along with other staff, were digging a pit near Velankadu Cemetery to bury the body of the deceased. At that time, the petitioner along with other accused have threatened the officials and prevented them from burying the body and also assaulted the defacto complainant and his staff and caused damages to the Mortuary Van and Ambulance. Hence the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case since he happens to be a person belonging to that area. He would further submit that the occurrence had happened during the initial days of Covid-19 and there was absolute panic among the public with regard to burial of bodies of persons who died of Covid-19 and therefore, the persons in the locality, being poor and unaware of the consequences, indulged in such activity. He would further submit that the petitioner was arrested on 20.04.2020 and he has been in judicial custody for more than four months. Hence, he prays for grant of bail to the petitioner.

4. The respondent has filed a counter.

5. The learned Government Advocate (Crl. Side) would submit that the petitioner is a resident of Velankadu Annai Sathya Nagar, Anna Nagar East. One Dr.Simon had died of Covid-19 and when the Corporation Officials were digging a pit to bury the body, the petitioner along with other accused had prevented the officials from burying the body and assaulted the defacto complainant and his staffs and also caused damages to the vehicles. He would further submit that the petitioner has got 4 previous cases out of which, 2 cases are for offence under Section 302 IPC. He would submit that some of the accused in this case have been detained under Act-14 of 1982. He would further submit that investigation in this case is over and final report has also been filed. He would further submit that the respondent has filed a detailed counter in this case. Hence he vehemently opposed for grant of bail to the petitioner.

6. Heard the learned counsel and perused the FIR and Counter.

7. Taking into consideration of the facts and circumstances and the submissions of the learned counsels and also considering the age of 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) each**, before the learned V Metropolitan Magistrate, Egmore, Chennai, **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 Aadhaar card or Bank pass Book to ensure their identity;

(d) **the petitioner on release from prison shall report before the Respondent Police everyday at 10.30 a.m and 5.30 p.m. until further orders.**

(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 2nd petitioner in accordance with law as if the conditions have been imposed and the 2nd 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.

8. With the above direction, this Criminal Original Petition is ordered accordingly.

-sd/-
17/08/2020

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 METROPOLITAN MAGISTRATE NO.V,
EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

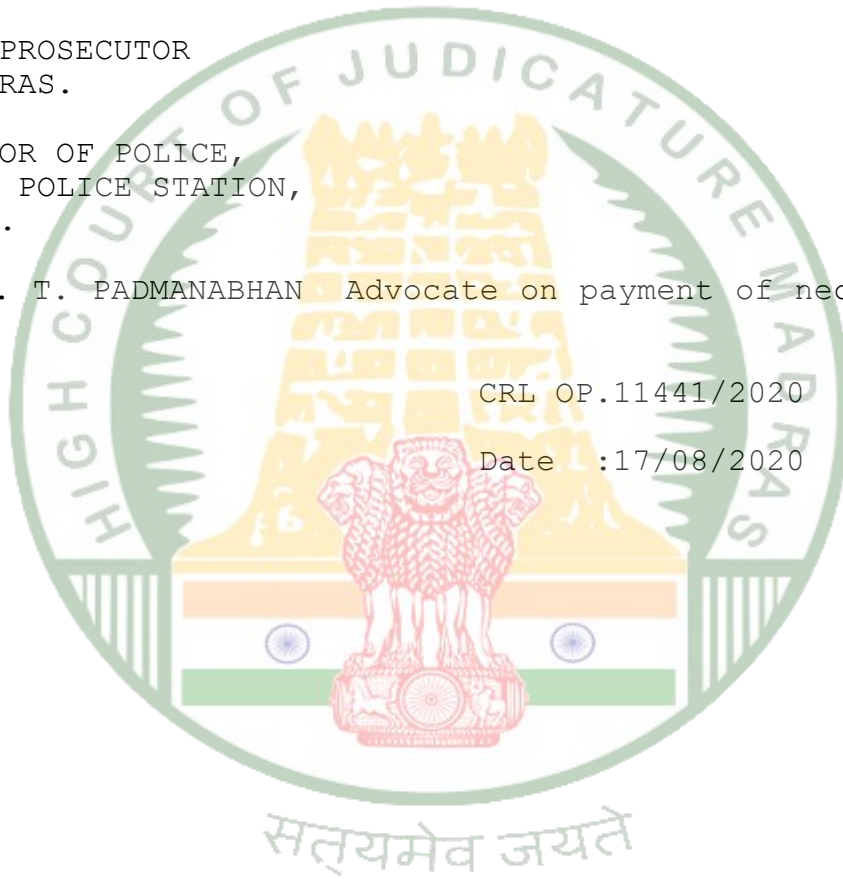
5 THE INSPECTOR OF POLICE,
K-4, ANNA NAGAR POLICE STATION,
CHENNAI-600 040.

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

CRL OP.11441/2020

Date :17/08/2020

MK:02/09/2020



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