

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.08.2020

CORAM :

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

Crl.O.P.No.12171 of 2020

Suriya
S/o.Pazhanisamy

... Petitioner

Vs.

1.The State, rep. By
Inspector of Police
Erumapatty Police Station
Namakkal district
(Crime No.44 of 2020)

2.The Deputy Superintendent of Police
CBCID Organized Crime Unit
Salem Unit, Salem

... Respondents

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.44 of 2020 pending investigation on the file of the 2nd Respondent Police.

For Petitioner : M/s.S.Vinoth Kumar

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 02.05.2020 for the offences punishable under Section 147, 148, 341, 302, 201 & 120(b) IPC, in Crime No.44 of 2020, seeks bail.

2.The case of the prosecution is that the 1st accused is the brother of the deceased one Senthil Raj and the 2nd accused is the wife of A1. The allegation is that due to property dispute, A1 and A2 engaged the petitioner and four others to commit the murder of the deceased Senthil Raj.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case based on the confession of the arrested accused. He would further submit that initially a case was investigated by the 1st respondent Erumapatty Police Station in Crime No.44 of 2020 and now the same has been transferred to the file of the 2nd respondent. He

would further submit in the meanwhile, some of the accused who are similarly placed have been granted interim bail by this Court in Crl.O.P.No.7174, 7298, 7322 and 7320 of 2020 which has been made absolute later. He would further submit that the petitioner is also a similarly placed person and he was arrested on 02.05.2020 and is in prison for more than 100 days and the petitioner is entitled for a bail as per Section 167(2) Cr.P.C.

4.The learned Government Advocate (Crl. Side) would submit that due to property dispute, A1 and A2 had committed the murder of A1's brother by engaging hirelings. He would further submit that the petitioner is A9. He would further submit that this Court in Crl.O.P.No.7670 of 2020, had directed the 2nd respondent to investigate into this matter. Though, the entire CD file has been transferred to the 2nd respondent viz. Deputy Superintendent of Police, CBCID Organized Crime Unit, Salem Unit, Salem, the same has not reached the 2nd respondent so far.

5.Heard both sides and perused F.I.R.

6.Taking into consideration of the facts and circumstances, and fairly considering the fact that the petitioner was arrested on 02.05.2020 and he is in custody for more than 100 days, also considering the fact that the co-accused who are also similarly placed like that of petitioner have been enlarged on bail and the learned Government Advocate (Crl. Side) also confirmed the same, and also taking into consideration of the period of incarceration suffered by the petitioner from 02.05.2020, 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 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) Thereafter, the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only), before the Judicial Magistrate No.1, Namakkal, 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 on his release from prison, shall report before the 2nd respondent / Deputy Superintendent of Police, CBCID Organized Crime Unit, Salem Unit, Salem everyday at 10.30 a.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 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.

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-

21/08/2020

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 JUDICIAL MAGISTRATE,
NO.I, NAMAKKAL

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE DEPUTY SUPERINTENDENT OF
POLICE, CBCID ORGANIZED CRIME UNIT

5 THE INSPECTOR OF POLICE
ERUMAPATTY POLICE STATION,
NAMAKKAL DISTRICT

CC to P.VIMAL RAJ Advocate on payment of necessary charges

CRL OP.12171/2020

Date :21/08/2020

RD 03/09/2020

<https://hcservices.ecourts.gov.in/hcservices/>