

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.08.2020

CORAM :

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

Crl.O.P.No.12447 of 2020

1.KARTHI @ KARTHIKEYAN
2.BOOBALAN
3.VIJAY @ DELLI
4.SARAVANAN

... petitioners

Vs.

STATE; rep. by the Inspector of Police
Kitchipalayam Police Station
Salem District
(Crime No.595 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.595 of 2020 on the file of the Inspector of Police, Kitchipalayam Police Station, Salem District.

For Petitioners : Mr.B.Vasudevan

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 10.07.2020 for the offences punishable under Section 147, 148, 294(b), 323, 307, 506(2) IPC, in Crime No.595 of 2020, seek bail.

2.The case of the prosecution as per the defacto complainant Sarathy is that there was a money dispute between him and the 1st accused one Selladurai. Further, the defacto complainant also passed information to the police regarding the illegal activities of the accused persons. Hence, on 09.07.2020, the petitioners have gone to the house of the defacto complainant and accused him and abused him with filthy language and also assaulted him and his brother with knife and iron pipe.

3.The learned counsel appearing for the petitioners would submit that there was a previous enmity between the petitioners and the defacto complainant, due to which, a false complaint has been given against the petitioners.

4.The learned Government Advocate (Crl. Side) would submit that the petitioners are notorious elements dealing with illegal transportation of PDS rice and also the petitioners have got several IPC cases. Since there was a money dispute between the defacto complainant and the 1st accused, and also the defacto complainant passed on information to the police about the illegal activities of the petitioners, the petitioners have assaulted him and his brother with knife and iron pipes, causing injuries to them. He would further submit that the injured have been discharged from the hospital. He would further submit that as far as the 1st petitioner / A3 is concerned, he has no previous case, as far as the 2nd petitioner / A5 is concerned, he has 8 previous cases, 3rd petitioner / A6 is concerned, he has 7 previous cases and the 4th petitioner / A7 is concerned, he has 9 previous cases. Hence, he vehemently opposes for the grant of bail to the petitioners.

5.Taking into consideration of the fact that the petitioners No.2, 3 and 4 have several previous cases of similar nature and other IPC cases, this court is not inclined to grant bail to these petitioners. Accordingly, the bail petition stands dismissed as far as the petitioners 2, 3 and 4 are concerned.

6.Taking into consideration of the facts and circumstances and also considering the fact that the 1st petitioner does not have any previous cases, this Court is inclined to grant bail to the 1st petitioner subject to the following conditions:

(a) Accordingly, the 1st 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 1st petitioner shall execute **two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each**, before the learned Judicial Magistrate No.2, Salem, **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 1st petitioner on his release from prison, shall report before the respondent police everyday at 10:30 a.m until further orders.

(e) the 1st petitioner shall not commit any offences of similar nature;

(f) the 1st petitioner shall not abscond either during investigation or trial;

(g) the 1st 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 1st petitioner in accordance with law as if the conditions have been imposed and the 1st 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.

7. With the above directions, this Criminal Original Petition stands dismissed as far as the 2nd, 3rd and 4th petitioners are concerned. This Criminal Original Petition stands ordered as far as the 1st petitioner is concerned.

-sd/-

18/08/2020

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.2,
SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

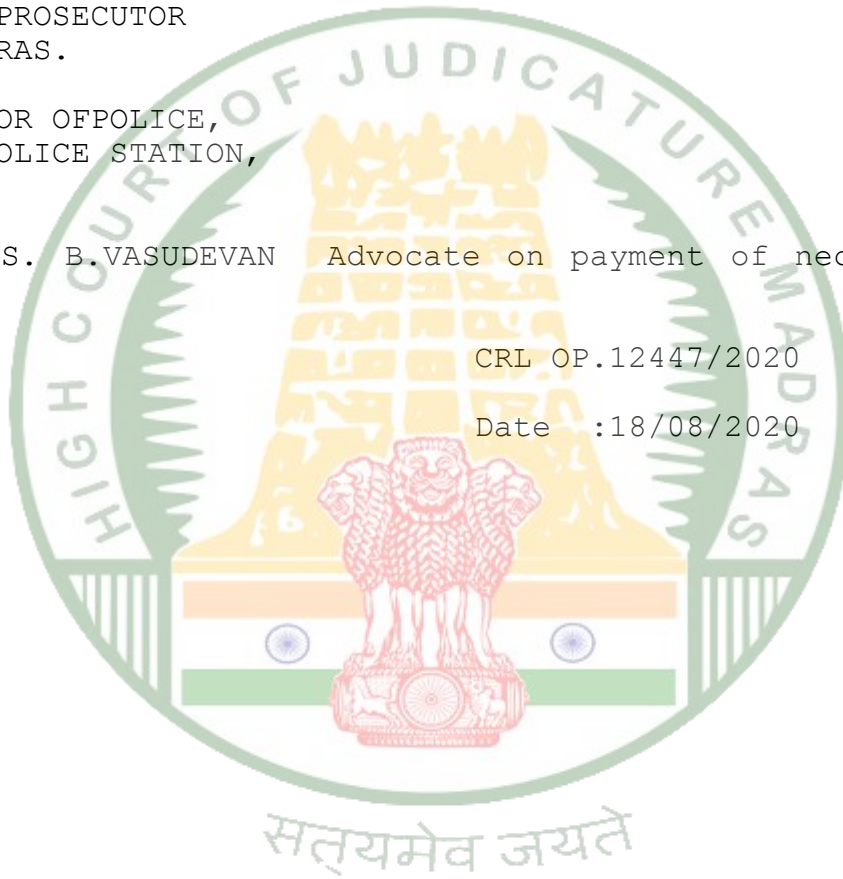
5 THE INSPECTOR OF POLICE,
KITCHIPALAYAM POLICE STATION,
SALEM DISTRICT.

CC to M/S. B.VASUDEVAN Advocate on payment of necessary
charges

CRL OP.12447/2020

Date :18/08/2020

MK:02/09/2020



WEB COPY