

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.09.2020

CORAM :

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

Crl.O.P.No.13745 of 2020

Karthi

... Petitioner

Vs.

The State

Rep. by the Inspector of Police

Kondalampatti Police Station

Salem City

Salem District

(Crime No.539 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.539 of 2020 on the file of the Respondent Police.

For Petitioner : Mr.R.Jayaprakash

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 24.06.2020 for the offences punishable under Section 294(b), 323, 392, and 397 IPC, in Crime No.539 of 2020, seeks bail.

2. The case of the prosecution as per the defacto complainant one Kannan is that the petitioner along with other accused waylaid the guest worker who was returning home during Pandemic by walk and assaulted him, threatened him and robbed a sum of Rs.15,000/- from him and also took away his cell phone.

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 said occurrence is stated to have taken place on 22.05.2020 and the complaint was given only on 23.06.2020.

4. Per contra, the learned Government Advocate (CrI. Side) would submit that the defacto complainant Kannan was walking through Salem to go back to his Village during Covid pandemic period. While he was on his way, the petitioner along with other accused had waylaid the defacto complainant, assaulted him, threatened him and had taken away a sum of Rs.15,000/- and also his cell phone. He would further submit that since the defacto complainant was going to his Village, he was not able to lodge a complaint on the same day. Immediately on his return to Salem, lodged a complaint before the respondent police. He would further submit that the identification parade has been conducted and the defacto complainant has identified the petitioner. He would further submit that there is no previous case against the petitioner. However, he vehemently opposes for the grant of bail to the petitioner.

5. At this juncture, the learned counsel appearing for the petitioner would submit that he is the 2nd accused in this case and has no previous cases against him and the 1st accused against whom there are previous cases was also granted bail by the learned Principal Sessions Judge, Salem vide order dated 27.08.2020 in CrI.M.P.No.2450 of 2020.

6. Taking into consideration of the facts and circumstances and the submissions made by the learned counsels, considering the fact that the petitioner has no previous cases, the major part of the investigation is over and that the co-accused in this case has been enlarged on bail by the learned Principal Sessions Judge, Salem, 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 **within a period of two weeks from the date of commencement of the Court's normal functioning, execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each,** for a like sum to the satisfaction of the learned Judicial Magistrate No.5, Salem, 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 on his release from prison, report before the respondent police 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 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.

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

-sd/-
11/09/2020

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

TRUE COPY

WEB COPY

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

TO

1 THE PRINCIPAL SESSIONS JUDGE
SALEM

2 THE JUDICIAL MAGISTRATE, NO.5,
SALEM

3 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

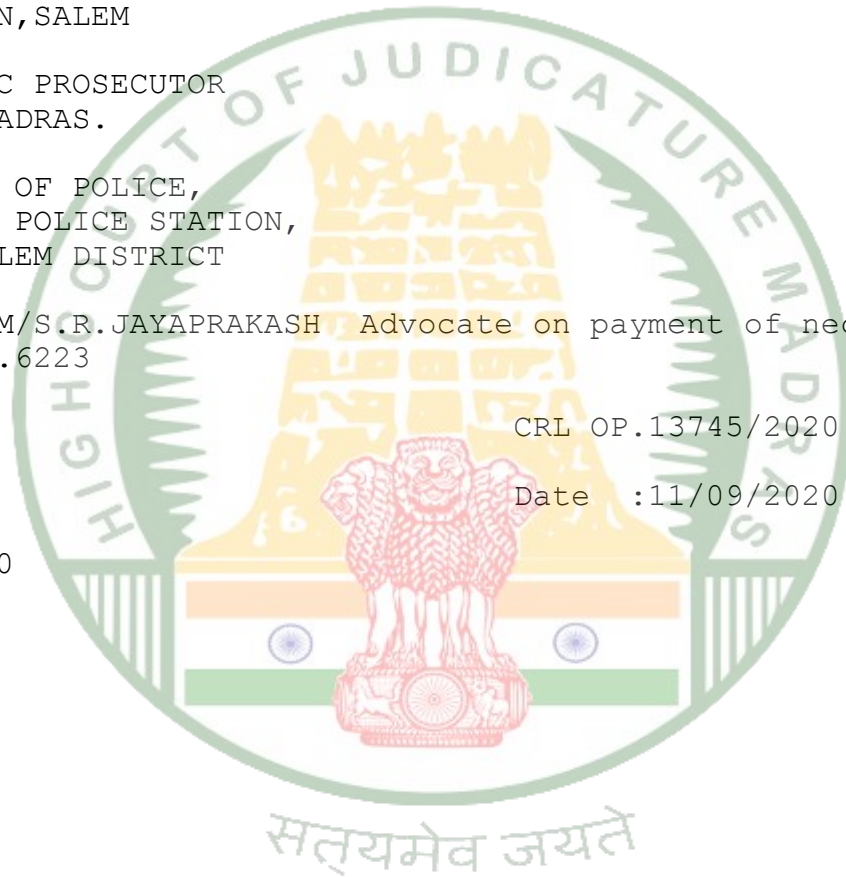
6 INSPECTOR OF POLICE,
KONDALAMPATTI POLICE STATION,
SALEM CITY, SALEM DISTRICT

+1 CC to M/S.R.JAYAPRAKASH Advocate on payment of necessary
charges SR.NO.6223

CRL OP.13745/2020

Date :11/09/2020

GKS:15/09/2020



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