

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 13711 of 2020

Sivakumar ... Petitioner/6th Accused

Vs.

The State represented by, ... Respondent/Complainant

The Sub Inspector of Police,

Ambur Town Police Station,

Ambur, Thirupathur District.

Crime No. 1776 of 2020

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 1776 of 2020, pending on the file of the respondent police.

For Petitioner : Mr.S.P.Arthi

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 20.08.2020 for the offences punishable under Sections 143, 294(b), 323, 353, 506(ii) of IPC and 3 of TNPPDL Act r/w Section 30 of Tamil Nadu Medicare Service Person and Medi Service Institution Act, 2008 in Crime No. 1776 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the defacto complainant is that he is an attender in the Government hospital and on 19.08.2020, a five year old boy who had met with a road accident was brought to the hospital and the doctor who had checked the child had stated that he was brought dead and directed that the body of the boy should be kept for postmortem but the relatives of the boy

created problem that the body of the boy should be handed over without doing postmortem and they have caused damages to the articles in the hospital and when it was questioned by the doctor, they threatened the doctor.

3 The learned counsel appearing for the petitioner would submit that the petitioner is innocent person and he has been falsely implicated in this case. He would submit that no proper treatment was given to the child, due to which the child died in the hospital and when it was questioned by the petitioner along with other accused, a false complaint has been given against them that they created problem in the hospital and threatened the staff of the hospital. He would further submit that he has lost the child and now he is in custody from 20.08.2020.

4 The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the child had died in a road accident and the relatives of the child threatened the doctor to give the body without doing postmortem and when it was refused by the hospital administration, petitioner along with other accused have assaulted the attender. Therefore, he opposed for grant of bail to the petitioner.

5 Taking into consideration of the facts and submissions made by the learned counsels and considering the period of incarceration suffered by the petitioner from 20.08.2020, 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) the petitioner shall within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, execute **two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each**, before the learned Additional District Munsif cum Judicial Magistrate, Ambur, 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 respondent police everyday at 10.30 a.m. for a period of two weeks and thereafter every Monday 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.

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

-sd/-

04/09/2020

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 ADDITIONAL DISTRICT MUNSIF CUM JUDICIAL
MAGISTRATE, AMBUR.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
AMBUR TOWN POLICE STATION,
AMBUR, THIRUPATHUR DISTRICT.

5 THE OFFICER INCHARGE
SUB JAIL, AMBUR.

CC to M/S. S.P.ARTHI Advocate on payment of necessary charges

CRL OP.13711/2020

Date :04/09/2020

TA-09/09/2020

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