

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.09.2020

CORAM :

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

Crl.O.P.No.13929 of 2020

Kathiravan @ Kumbakonam Kathiravan

... Petitioner

Vs.

State Rep. By

The Inspector of Police

Annamalai Nagar Police Station,

Cuddalore District.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.205 of 2019 on the file of the respondent police.

For Petitioner : Mr.A.M.Rahamath Ali

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 29.08.2019 for the offences punishable under **Sections 294(b), 302 IPC and 3& 4(a) of Explosives Act and later altered to Sections 294(b), 147, 148, 448, 120-B, 302 of IPC and Sections 3 and 4(a) of Explosives Act, in Crime No.205 of 2019**, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Manikandan is that due to previous enmity, the petitioner along with the other accused committed the murder of one Pandiyaraj @ Kozhi Pandiyan by cutting him with Machete and also by hurling country made bombs. Hence, the complaint.

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. He would submit that even in the complaint, the defacto complainant has stated about three persons who could be identified and later, the petitioner has been falsely implicated in this case. He would further submit that due to the pressure from the respondent police, the petitioner

voluntarily surrendered before the Judicial Magistrate-I, Thanjavur, on 26.08.2019 and thereafter, he was remanded to judicial custody. Later, the petitioner was clamped with the detention order passed by the District Collector, Cuddalore, against which, the petitioner filed a petition in H.C.P.No.2834 of 2019 and this Court was pleased to quash the detention order by order dated 01.07.2020. He would further submit that the investigation has been completed and the final report has been filed before the Judicial Magistrate-I, Chidambaram. He would also submit that the petitioner has been arrayed as A2 and the co-accused /A3, A4, A5 have been enlarged on bail by the Sessions Court and that he is prepared to abide by any stringent condition. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Criminal Side) would vehemently oppose stating that it is a case of retaliatory murder. The petitioner along with other accused due to previous enmity, assaulted one Pandiyaraj @ Kozhi Pandian with Machete and also hurled country bombs on him. He would further submit that the petitioner has got three previous cases out of which, one case is registered for offence under Section 302 IPC, another case is registered under Arms Act, and the yet another case is registered for offence under Section 506(ii) IPC.

5. Taking into consideration of the facts and circumstances and the submissions made by the learned counsels and the fact that the investigation has been completed, final report has been filed and the petitioner has voluntarily surrendered before the Judicial Magistrate and also considering the period of incarceration of the petitioner from 29.08.2019, 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;

(b) Thereafter, the petitioner shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand Only)** with two sureties each for a like sum to the satisfaction of the **learned Judicial Magistrate-I, Chidambaram, within a period of two weeks from the date of commencement of the Court's normal functioning**, 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 stay at Villupuram, and report before the Inspector of Police, Town Police Station, Villupuram, daily at 10.30 a.m. and 5.30 p.m. until further orders. The petitioner shall not enter into the jurisdictional limits of the respondent police 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/-
16/09/2020

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 JUDICIAL MAGISTRATE NO.I,
CHIDAMBARAM

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE DISTRICT [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
ANNAMALAI NAGAR POLICE STATION,
CUDDALORE DISTRICT.

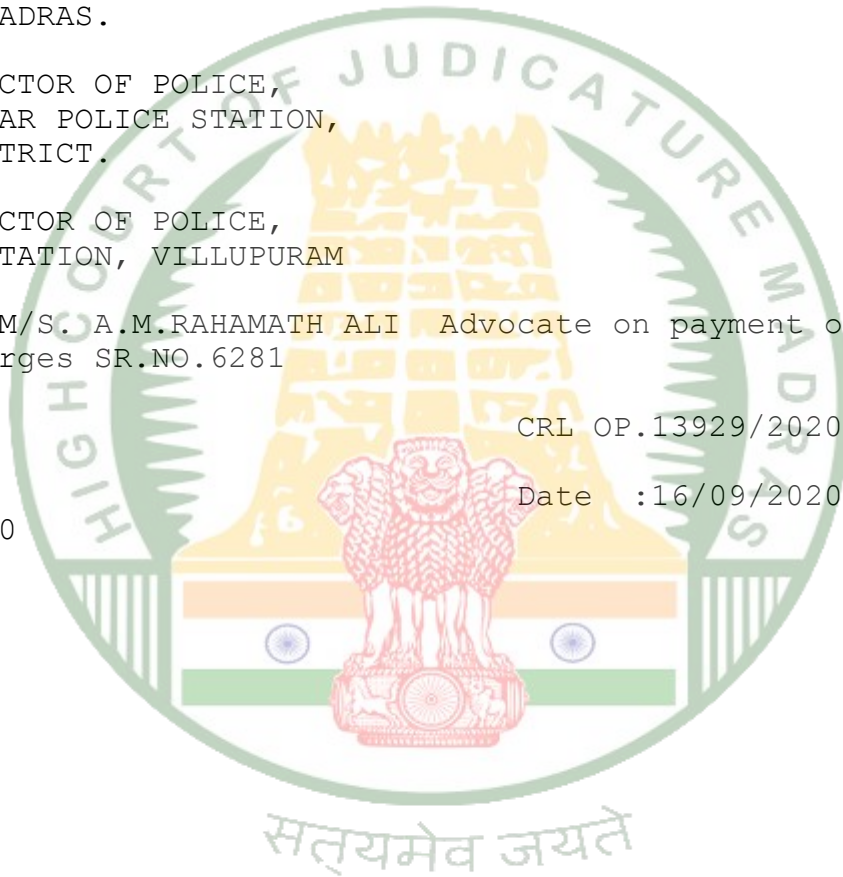
6 THE INSPECTOR OF POLICE,
TOWN POLICE STATION, VILLUPURAM

+1 CC to M/S. A.M. RAHAMATH ALI Advocate on payment of
necessary charges SR.NO.6281

CRL OP.13929/2020

Date :16/09/2020

GKS:18/09/2020



WEB COPY