

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.09.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
Crl.O.P.No.14530 of 2020

S.Magesh

... Petitioner/ Accused-3

Vs.

The State

Rep. by The Inspector of Police,
M-8, Sathangadu Police Station,
Chennai.

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner/Accused-3 on bail in Crime No.2287 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.K.Bommuraj

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 17.08.2020 for the offences punishable under Sections 147, 148, 294(b), 323, 342, 307 of IPC in Crime No. 2287 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the defacto complainant Narendran is that on 16.08.2020, his cousin had lost his cell phone and while the defacto complainant was searching for the cell phone in a play ground, he had enquired with the petitioner along with six other accused about the cell phone and the accused persons got angry and they have assaulted the defacto

complainant with hands and quarrelled with him. At that time all the accused have caught hold of the defacto complainant and one Bala/A1 had stabbed the defacto complainant with knife due to which, the defacto complainant sustained injuries and was admitted in the hospital. Hence, the complaint.

3 The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. On reading of FIR would show that the entire case is a false one since, the defacto complainant who is a stranger is able to tell the names of all the accused. He would submit that even in the FIR, it is stated that the petitioner has only caught hold of the defacto complainant and he has not caused any other injury to him. He would submit that excepting the fact that the petitioner was present at the scene of occurrence, there is no overt-act is attributed to the petitioner and there is no previous case against the petitioner. He would further submit that co-accused in this case has been granted bail by this Court in Crl.O.P.No.13589 of 2020 by order dated 03.09.2020. Hence, he prays to grant bail to the petitioner.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner along with other accused caught hold of the defacto complainant and one Bala/A1 in this case had stabbed the defacto complainant with knife and the victim has been discharged from the hospital after three days and there is no previous case against the petitioner. However, he opposed to grant bail to the petitioner.

5 Heard both sides and perused the FIR placed on record.

6 Taking into consideration of the facts and submissions made by the learned counsels and considering the fact that the victim has been discharged from the hospital, there is no previous case against the petitioner and similarly placed accused has been granted bail by this Court and also considering the period of incarceration of the petitioner from 17.08.2020, 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 executing 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 execute two sureties, each for a sum of Rs.10,000/- (Rupees Ten Thousand only), before the learned Judicial Magistrate, Thiruvottriyur, Chennai, within 15 days 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 shall report before the respondent police everyday at 10.30 a.m. and 05.30 p.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/-
18/09/2020

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,
THIRUVOTTRIYUR, CHENNAI

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

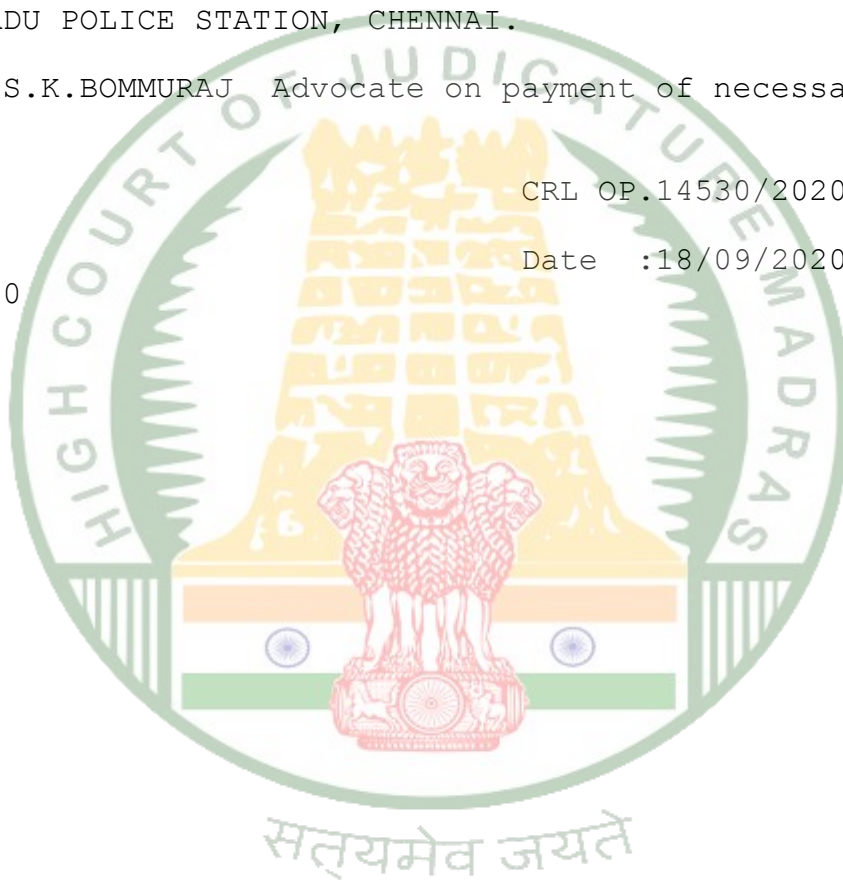
4 THE INSPECTOR OF POLICE,
M-8, SATHANGADU POLICE STATION, CHENNAI.

CC to M/S.K.BOMMURAJ Advocate on payment of necessary
charges

CRL OP.14530/2020

Date :18/09/2020

GKS:22/09/2020



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