

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.09.2020

CORAM :

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

CRL.O.P.No.14634 of 2020

KAMALESH

... Petitioner

Vs.

STATE: rep by

The Inspector of Police,
K-10, Koyambedu Police Station,
Chennai.

(In Crime No.791 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner/accused on bail in Crime No.791 of 2020 on the file of the respondent police.

For Petitioner : Mr.M.Magesh

For Respondent : Ms.S.Thankira
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 10.07.2020 for the offence punishable under Sections 147, 148, 294(b), 427, 448, 302 of IPC, in Crime No.791 of 2020, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Balasubramani is that on 07.07.2020 at about 9.45 p.m., the accused, totally 10 in number, barged into the house of the defacto complainant and committed the murder of his son Srikanth Raj. 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 since he happens to be the friend of the the main accused. He would further submit that the incident is alleged to have happened on 07.07.2020 and the petitioner was arrested on 10.07.2020 and he has been in judicial custody for more that two months and there is no previous case against him. He would submit that the deceased Srikanth Raj is a notorious person and there is one 302 IPC

case pending against him and due to previous enmity, some other person who is having enmity against him committed the murder. He would further submit that co-accused / A8 and A6 have been granted bail by this Court in Crl.O.P.No.13722 of 2020 and Crl.O.P.No.14005 of 2020 dated 04.09.2020 and 09.09.2020 respectively. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Criminal Side) would submit that due to previous enmity the petitioner along with his friends, by carrying deadly weapons entered into the house of the victim and committed the murder by attacking him indiscriminately with knife. She would submit that the deceased is a call taxi driver and had one murder case pending on the file of the Virugambakkam Police Station, who also posed as DADA in the local area. She would submit that as far as this petitioner is concerned, there is no previous case against him. However, she would submit that the petitioner has been brought to adverse notice and there is a life threat to the defacto complainant and the investigation is pending. Hence, she vehemently opposed for grant of bail.

5. Taking into consideration of the facts and circumstances and the submissions made by the learned counsels and the fact that co-accused/A8 and A6 have been granted bail by this Court and there is no previous case against the petitioner and also considering the period of incarceration suffered by the petitioner, 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 V Metropolitan Magistrate, Egmore, Chennai, 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 Vellore and report before the Inspector of Police, Sathuvachari Police Station, Vellore, 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.

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

-sd/-
22/09/2020

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.

सत्यमेव जयते

TO

1 THE METROPOLITAN MAGISTRATE
NO.V, EGMORE, CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON,
PUZHAI, CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

WEB COPY

4 THE INSPECTOR OF POLICE,
K-10, KOYAMBEDU POLICE STATION,
CHENNAI.

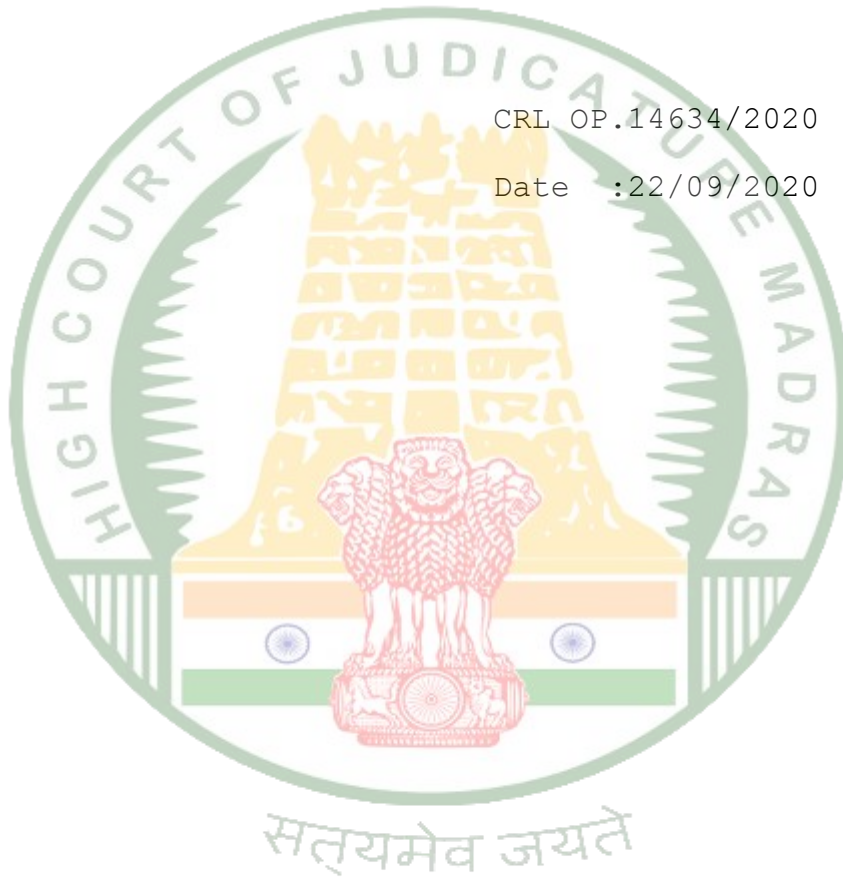
5 THE INSPECTOR OF POLICE
SATHUVACHARI POLICE STATION,
VELLORE.

+1 CC to M/S.M.MAGESH Advocate on payment of necessary charges
SR.No.6377

cs 23/09/2020

CRL OP.14634/2020

Date :22/09/2020



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