

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.09.2020

CORAM :

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

CRL.O.P.No.14947 of 2020

Dhivakar

... Petitioner

Vs.

The State of Tamil Nadu
Rep. By its Inspector of Police
Thirukazhukundram Police Station
Chengalpattu District
(Crime No.893 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.893 of 2020 on the file of the respondent police.

For Petitioner : Mr.W.M.Abdul Majeed

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 20.08.2020 for the offence punishable under **Sections 294(b), 324, 506(ii) and 302 IPC and later @ Sections 202, 212, 294(b), 324, 506(ii) and 302 IPC in Crime No.893 of 2020**, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Kasi is that due to quarrel in respect of grazing cattle in the field, the first and second accused have assaulted the wife of the defacto complainant with wooden log on her head due to which, she sustained injuries and died. Originally the case was registered for offence under Sections 294(b), 324, 506(ii) and 302 IPC and later altered to Sections 202, 212, 294(b), 324, 506(ii) and 302 IPC.

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 further submit that the petitioner is arrayed as A3 in this case and the only allegation attributed to the petitioner is that, he had dropped one of the accused to the scene of occurrence and later he harbored the accused in his house. Other than that there is no allegation against the petitioner as if, he assaulted the victim. He would further submit that the petitioner was arrested on 20.08.2020 and the main assailants were also arrested by the respondent police. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that the petitioner along with other accused joined together and committed the murder of the wife of the defacto complainant. Later, the petitioner has harbored the other accused in his house and also failed to inform to the police.

5. It is seen that all the accused have been arrested and remanded to judicial custody and the allegation against the petitioner is that he had only dropped the other accused to the scene of occurrence and thereafter, he has given asylum to A1 and that intentionally he has omitted to inform the police about the offence.

6. Taking into consideration the above facts and circumstances and the submissions made by the learned Counsels and 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 Judicial Magistrate, Thirukazhukundram, 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 North Police Station, daily at 10.30 a.m. until further orders. The petitioner shall not enter into the jurisdictional limit 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.

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

-sd/-

24/09/2020

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

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TRUE COPY

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

TO

1 THE JUDICIAL MAGISTRATE,
THIRUKAZHUKUNDRAM

2 THE JAILER,
POONAMALLEE JAIL

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THIRUKAZHUKUNDRAM POLICE STATION,
CHENGALPATTU DISTRICT,

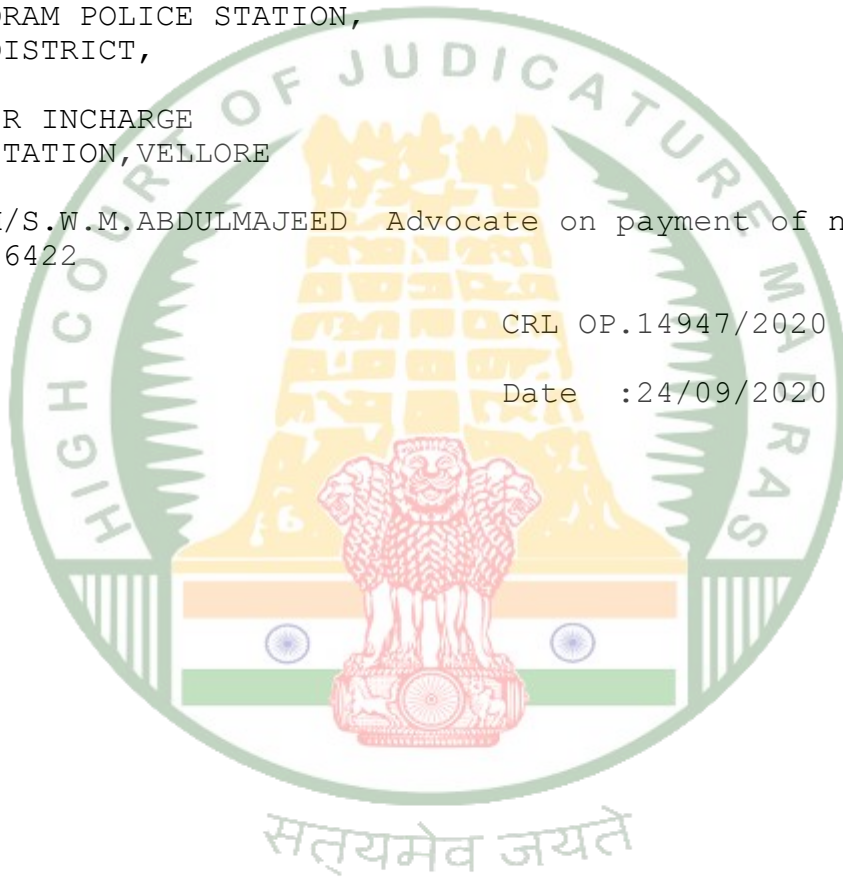
5 THE OFFICER INCHARGE
NORTH POLICE STATION, VELLORE

+1 CC to M/S.W.M.ABDULMAJEED Advocate on payment of necessary
charges SR.NO.6422

CRL OP.14947/2020

Date :24/09/2020

GKS:25/09/2020



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