

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No. 15522 of 2020

Elangovan

... Petitioner

Vs.

State: Inspector of Police,
Sriperumbudur Police Station,
Sriperumbudur.

(Crime No.2360 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.2360 of 2020, pending investigation on the file of the respondent police.

For Petitioner : Mr.M.Rajavelu

For Respondent : Mrs.S.Thankira

Government Advocate (CrI. 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 25.08.2020 for the offences punishable under Sections 279, 337 and 304(A) of IPC @ 279, 337 and 304(2) of IPC, in Crime No.2360 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the defacto complainant Moorthy is that on 12.08.2020 at about 4.30 p.m., his son Rajesh along with his friends Jeeva and Muralidaran was travelling in a two wheeler. At that time, the the petitioner had driven the Bolero Maxi Cab bearing Regn. No.TN 32 AU 1640 in a rash and negligent manner under the influence of alcohol and hit against the motor cycle and caused the death of his son Rajesh and serious injuries to Muralidaran and minor injury to Jeeva. Hence, the complainant.

3 The learned counsel appearing for the petitioner would submit that this is second application for bail and the earlier petition was dismissed on 10.09.2020 and he has not committed any offence as alleged by the prosecution. He would submit that it is a case of road accident and later it has been falsely altered to

Section 304(2). He would further submit that the petitioner is a paid employee in a company. However, without prejudice to his contention and defence, the petitioner is prepared to pay considerable amount to the family of the deceased as well as to the family of the injured. He would further submit that the petitioner has been suffering incarceration from 25.08.2020. 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 under the influence of alcohol had driven the vehicle in a rash and negligent manner and caused death of one Rajesh and also caused serious injuries to one Muralidaran. She would submit that knowing fully well that it is dangerous to drive the vehicle under the influence of alcohol, he has driven the vehicle resulting in one death and injury to another victim. Initially the case was registered for offence under Sections 279, 337 and 304(A) of IPC and subsequently it was found that the petitioner was under the influence of alcohol when the incident had happened and thereby, the case was altered to Sections 279, 337 and 304(2) of IPC. Hence, she vehemently opposed for bail.

5 Heard the learned Counsels and perused the F.I.R.

6 Taking into consideration the facts and submissions made by the learned counsels and that the petitioner has come forward to pay considerable amount to the families of the victims and also considering the period of incarceration of the petitioner from 25.08.2020, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is directed to **pay a sum of Rs.1,25,000/- (Rupees One Lakh Twenty Five Thousand Only) to the credit of Crime No.2360 of 2020 without prejudice to any other statutory claim being made by the families of the deceased and the other victim**, and on such deposit the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Fifteen Thousand only), with two sureties each for a like sum to the satisfaction of the **learned Judicial Magistrate, Sriperumbudur**, and on further conditions that:

(b) 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;

(c) the petitioner shall report before the respondent every day at 10.30 a.m., until further orders.

(d) The learned Magistrate shall immediately disburse a sum of Rs.75,000/- (Rupees Seventy Five Thousand Only) to the family of the deceased Rajesh S/o.Moorthy and a sum of Rs.50,000/- (Rupees Fifty Thousand Only) shall be disbursed to the injured Muralidaran S/o. Ekambaram, on proper identification and acknowledgement.

(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/-

01/10/2020

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 COURT,
SRIPERUMBUDUR.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPET [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON 2, PUZHAI,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

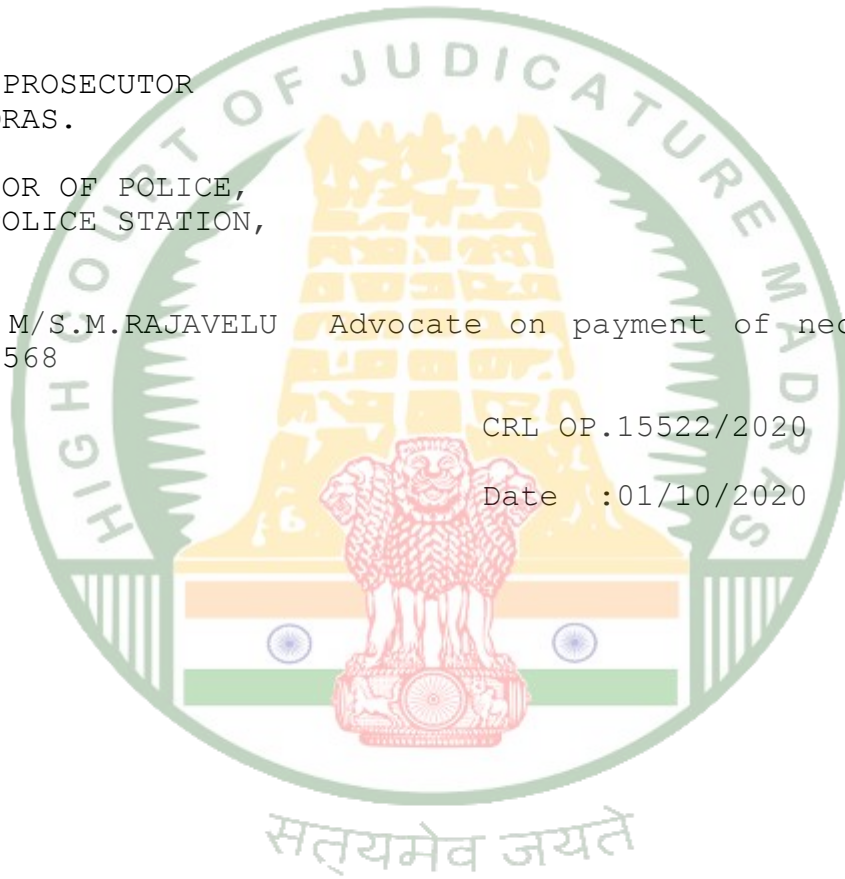
5 THE INSPECTOR OF POLICE,
SRIPERUMBUDUR POLICE STATION,
SRIPERUMBUDUR.

+1CC to M/S.M.RAJAVELU Advocate on payment of necessary
charges SR NO.6568

CRL OP.15522/2020

Date :01/10/2020

MK:05/10/2020



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