

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.09.2020

CORAM :

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

CRL.O.P.No.15245 of 2020

Gokulnath

... Petitioner

Vs.

The State rep by its
The Inspector of Police,
Avadi Police Station,
Chennai.
(Crime No.1061 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.1061 of 2020 on the file of the respondent police.

For Petitioner : Mr.D.Padmanabhan

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 26.08.2020 for the offences punishable under Sections 452, 294(b), 342, 324, 307 and 506(ii) of IPC in Crime No.1061 of 2020, on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant Manoj is that on 26.08.2020, when the defacto complainant had gone to the house of his childhood friend, the accused had entered into his friend's house and had assaulted him brutally with knife due to which, he sustained five cut injuries and his throat was also slit. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that this is the second bail application, his earlier application for bail was dismissed by this Court vide order dated 14.09.2020 in Crl.O.P.No.14286. He would further submit that even as per the F.I.R., earlier the victim had assaulted the first accused with knife in respect of which, the victim was in jail. Thereafter, he came out of jail three days prior to the occurrence. He would further submit that the petitioner is the friend of A1 and he has no bad antecedents and that he is suffering incarceration from 26.08.2020 and 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 accused have entered into the house of the defacto complainant's friend and attacked the defacto complainant with knife due to which, he sustained serious injuries. She would submit that the accused had also slit the throat of the victim. She would further submit that this Court on an earlier occassion was pleased to grant bail to the co-accused only on the ground that he had not entered into the house of the victim. As far as this petitioner is concened, he has assaulted the defacto complainant.

5.Taking into consideration of the facts and circumstance of this case and also considering the fact that the petitioner is in jail from 26.08.2020 and that he has no previous case, 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 a bond for a sum of Rs.10,000/- (Ten Thousand only) with two sureties each for a likesum sum to the satisfaction of the the learned Judicial Magistrate No.II, Poonamallee, 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 stay at Tindivanam and report before the Tindivanam Town Police Station everyday at 10.30 a.m. and 05.30 p.m. until further orders. The petitioner shall not enter the jurisdictional limits of the respondent police.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) 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];

(h) 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/-

28/09/2020

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.II, POONAMALLEE

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
AVADI POLICE STATION,
CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI,
CHENNAI

CC to M/S.D.PADMANABHAN Advocate on payment of necessary charges

CRL OP.15245/2020

Date :28/09/2020

RVR 30/09/2020