

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 15242 of 2020

Sarath @ Sarathkumar

... Petitioner/1st Accused

Vs.

The State represented by,
The Inspector of Police,
Annamalai Nagar Police Station,
Cuddalore District.
(Crime No. 205 of 2019)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 205 of 2019, on the file of the respondent police.

For Petitioner : Mr.K.Vivekanandhan

For Respondent : Mrs.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 25.08.2020 for the offences punishable under Sections 294(b), 302 IPC r/w 3 & 4(a) Explosive Act, subsequently altered into 147, 148, 448, 294(b), 120(B), 302 IPC r/w 3 & 4(a) Explosive Substance Act, 1908, in Crime No. 205 of 2019 on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the defacto complainant Manikandan is that due to previous enmity, the petitioner along with the other accused committed the murder of one Pandiyaraj @ Kozhi Pandiyan by cutting him with Machete and also by hurling country made bombs. Hence, the complaint.

3 The learned counsel appearing for the petitioner would submit that on 25.08.2020, the petitioner has voluntarily surrendered before the learned II Metropolitan Magistrate, Chennai and thereafter, he was remanded to the Judicial Custody. Later the petitioner was clamped with the detention order passed by the learned District Collector, Cuddalore. As against the same the petitioner has filed a petition in H.C.P.No.2626 of 2019 and this Court was

pleased to quash the detention order by order dated 28.05.2020. He would further submit that the investigation has been completed and the final report has been filed before the learned Judicial Magistrate No.I, Chidambaram. He would also submit that the petitioner has been arrayed as A1 and the co-accused in this case viz., A3, A4, A5 have been enlarged on bail by the Sessions Court and A2 in this case one Kathiravan, who has similarly placed has been enlarged on bail by this Court in Crl.O.P.No.13929 of 2020, dated 16.09.2020. Hence, he prays to grant bail to the petitioner.

4 The learned Government Advocate (Criminal Side) appearing for the respondent would vehemently oppose stating that it is a case of retaliatory murder. The petitioner along with other accused due to previous enmity, had assaulted one Pandiyaraj @ Kozhi Pandian with Machete and had also hurled country bombs on him. He would further submit that the petitioner has got five previous cases against him.

5 At this juncture, the learned counsel appearing for the petitioner would submit that the co-accused in this case have been enlarged on bail and that as far as the first case was registered in Crime No. 435 of 2011 is concerned, the petitioner has been acquitted and the other cases are pending for trial. He would submit that the petitioner is prepared to abide by any stringent condition that may be imposed on him. Hence, he prays to grant bail to the petitioner.

6 Taking into consideration of the facts and circumstances and the submissions made by the learned counsels and the fact that the investigation has been completed, final report has been filed and the petitioner has voluntarily surrendered before the learned II Metropolitan Magistrate, Chennai and also considering the period of incarceration of the petitioner from 25.08.2019 and that co-accused have been enlarged on bail, 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/- (Rupees Ten Thousand only), with two sureties, out of the two sureties, one should be Government surety, each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Chidambaram 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 Chennai and report before Periamet Police Station everyday at 10.30 a.m. and 05.30 p.m., until further orders and the petitioner shall not enter into the jurisdictional limits of the respondent police. Further, the petitioner shall appear before the respective Trial Court on the date of hearing of the respective cases, once regular functioning of the Courts get resumed.

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

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

(f) the petitioner shall not tamper with evidence or witness either during 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/-
29/09/2020

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.I, CHIDAMBARAM,
CUDDALORE DISTRICT.

2 THE METROPOLITAN MAGISTRATE
NO.II, EGMORE, CHENNAI

3 THE SUPERINTENDENT,
CENTRAL PRISON,
CUDDALORE DISTRICT.

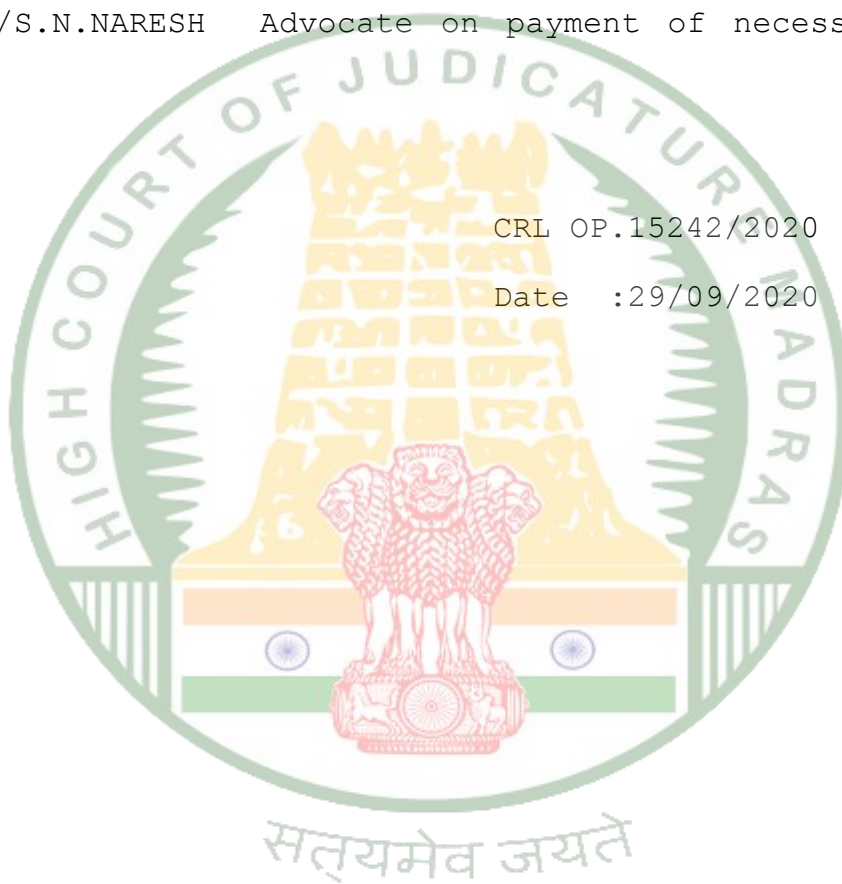
4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
ANNAMALAI NAGAR POLICE STATION,
CUDDALORE DISTRICT.

6 THE OFFICER INCHARGE
PERIAMET POLICE STATION,
CHENNAI.

+1 CC to M/S.N.NARESH Advocate on payment of necessary charges
SR.No.6498

cs 30/09/2020



CRL OP.15242/2020

Date :29/09/2020

WEB COPY