

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.10.2020

CORAM :

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

CRL.O.P.No.16122 of 2020

N.SAMMANTHAMURTHY

... Petitioner

Vs.

State rep.By:

INSPECTOR OF POLICE,
Otteri Police Station,
Otteri, Chennai.
(Crime No.891 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with Crime No.891 of 2020 on the file of the respondent.

For Petitioner : Mr.K.G.Senthil Kumar

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 04.09.2020 for the offences punishable under Section 302 of IPC, in Crime No.891 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz. Nihara is that the accused due to previous enmity committed the murder of her brother Mohammad Buhari on 04.09.2020.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that very reading of the F.I.R would go to show that it is a case of hear say and the defacto complainant is not an eye witness to the occurrence and she has given a complaint based on the information given by one Karimulla. He would further submit that the deceased is a drunkard and used to create problem with several persons and he was staying in a platform and dilapidated old buildings where he had created some problem nearby and died but the petitioner has been implicated in this case falsely on suspicion. He would further submit that the petitioner was arrested on 04.09.2020 and he is in custody for more than 55 days.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner along with one Senthilkumar / A1 had committed murder of the brother of the defacto complainant viz. Mohammad Buhari. He would further submit that the investigation is pending and both the accused have been arrested and in custody from 04.09.2020.

5.Heard the learned Counsel on either side. Perused F.I.R. and other materials placed on record.

6.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration 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 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 X Metropolitan Magistrate, Egmore, Chennai 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 on his release from prison shall report before the respondent police everyday at 10.30 a.m. and 5.30 p.m. until further orders.

(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.

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

-sd/-

29/10/2020

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 X METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
OTTERI POLICE STATION,
OTTERI, CHENNAI.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI,
CHENNAI.

CC to M/S.K.G.SENTHILKUMAR Advocate on payment of necessary charges Sr.7159

CRL OP.16122/2020

Date : 29/10/2020

RVR 02/11/2020

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