

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.11.2020

CORAM :

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

CRL.O.P.No.17438 of 2020

Kamaraj

... 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 filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with Crime No.1061 of 2020 on the file of the respondent police.

For Petitioner : Mr.D.Padmanabhan

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 26.08.2020 for the offences punishable under Section 452, 294(b), 342, 324, 307, 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 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 4th bail application and this Court had earlier dismissed his bail application vide order dated 14.10.2020 in Crl.O.P.No.16332 of 2020 stating that it is too early. He would further submit that even as per F.I.R., the victim earlier had assaulted the petitioner/ 1st 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 suffering incarceration from 26.08.2020 and the victim has been discharged much earlier. He would further submit that the four previous cases pending against the petitioner were registered four years ago.

4.The learned Government Advocate (Criminal Side) would vehemently oppose stating that due to previous enmity, the accused along with A2 hd entered into the house of the defacto complainant's friend and attacked the defacto complainant with knife due to which, he sustained serious injuries. He would submit that the accused had also slit the throat of the victim. He would further submit that the petitioner is a history sheeter and he has four previous cases to his credit and this Court had dismissed his bail earlier application vide order dated 14.10.2020 in CrI.O.P.No.16332 of 2020.

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

6.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration of the period of incarceration suffered by the petitioner from 26.08.2020, 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 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 on his release from prison shall stay at Madhuranthagam and report before the Madhuranthagam Town Police Station everyday at 10.30 a.m. for a period of four weeks and thereafter report before the respondent police everyday at 10.30 a.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/-

06/11/2020

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 CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
AVADI POLICE STATION,
CHENNAI

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI,
CHENNAI

6 THE OFFICER INCHARGE,
MADHURANTHAGAM TOWN POLICE STATION,
MADHURANTHAGAM.

CC to M/S. D. PADMANABHAN Advocate on payment of necessary charges Sr. 7348

CRL OP. 17438/2020

Date : 06/11/2020

RVR 09/11/2020