

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.11.2020

CORAM :

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

CRL.O.P.No.18044 of 2020

Vijayakumar

... Petitioner/4th Accused

Vs.

The State represented by,
The Station House Officer,
Panruti Police Station,
Cuddalore District.
Crime No. 2040 of 2020

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 2040 of 2020, on the file of the respondent police.

For Petitioner : Mr.D.Lakshmipathy

For Respondent : Mr.T.Shunmugarajeswaran
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 06.09.2020 for the offences punishable under Sections 147, 148, 294(b), 323, 506(ii) and 302 of IPC subsequently altered into Sections 120(b), 147, 148, 294(b), 323, 506(ii) and 302 of IPC, in Crime No. 2040 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz., Karthik is that there was a previous enmity between the family of the defacto complainant and the accused. While so, on 05.09.2020, at about 06.45 p.m., while the defacto complainant and his brother were standing near Thiruvathigai bus stand, the accused persons had surrounded them with weapons and had assaulted them with iron pipes and stabbed his brother repeatedly with knife, due to which, his brother sustained injuries and he was admitted in the Panruti Government Hospital and thereafter, referred to Cuddalore Government Hospital, where the brother of the defacto complainant was declared brought dead. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that this is the second application for bail and the earlier application was dismissed by this Court vide order dated 13.10.2020 in Crl.O.P.No.16301 of 2020. He would further submit that the major part of the investigation is over and the petitioner is in custody from 06.09.2020.

4.The learned Government Advocate (Crl.side) appearing for the respondent would vehemently oppose stating that due to previous enmity between the petitioner and defacto complainant, the petitioner along with other accused had waylaid the defacto complainant and his brother and assaulted them with iron pipes and stabbed the brother of the defacto complainant indiscriminately with knife. Thereby, the brother of the defacto complainant has sustained serious injuries and he was admitted in the Panruti Government Hospital and later he was referred to Cuddalore Government Hospital, where, he was declared brought dead. He would further submit that the investigation is pending.

5.Taking into consideration of the facts and submissions and also considering 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 Judicial Magistrate No.1, Panruti, 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 Madurai and report before the Thallakulam Police Station everyday at 10.30 a.m. until further orders. The petitioner shall not enter into 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/-

18/11/2020

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.I, CUDDALORE.

2 THE JUDICIAL MAGISTRATE,NO.I, PANRUTI

3 THE CHIEF JUDICIAL MAGISTRATE,CUDDALORE.(FOR INFORMATION)

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE STATION HOUSE OFFICER,
PANRUTI POLICE STATION,
CUDDALORE DISTRICT.

6 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

7 THE OFFICER INCHARGE,
THALLAKULAM POLICE STATION, MADURAI

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

CRL OP.18044/2020

Date :18/11/2020