

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.11.2020

CORAM :

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

CRL.O.P.No.17402 of 2020

H.Ajith

... Petitioner

Vs.

State rep by,
Inspector of Police,
Madhavaram Police Station,
Chennai.
(Crime No.3527 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail, pending investigation in Crime No.3527 of 2020 on the file of the respondent police.

For Petitioner : Mr.C.Manikandan

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 18.08.2020 for the offences punishable under Sections 341, 294(b), 324, 307, 506(ii) of IPC @ 341, 294(b), 324, 302, 506(ii) r/w 120B of IPC in Crime No.3527 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the de facto complainant Chiranjivi is that the accused Karthik, Sarathy and Monish had driven two wheeler in a rash and negligent manner and it was questioned by the deceased Abishek and there was a quarrel and also there was previous enmity between them. Due to the enmity, the petitioner along with other accused assaulted the deceased with beer bottle and stone on the head repeatedly, due to which, he sustained head injuries and admitted in hospital and later, he succumbed to the injuries. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case based on the confession of the other arrested accused. He would submit that originally, the case was registered for the offence under Section 307 of IPC and later, since the victim succumbed to the injuries, the case was altered into one under Section 302 of IPC. He would submit that A1 and A3 were already detained under Act,14 and that the petitioner has no previous case against him. He would submit that the petitioner was arrested on 19.08.2020 and he is in custody for more than 80 days and hence, he prays for grant of bail to the petitioner.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose the grant of bail stating that due to previous enmity, the petitioner along with other accused committed murder one Abishek by assaulting him repeatedly with beer bottles and stones on his head, due to which, he sustained grievous head injuries and admitted in hospital. He would submit that originally, the case was registered for the offence under Section 307 of IPC and later, the case was altered into one under Section 302 of IPC, since the victim succumbed to the injuries. He would further submit that the main accused in this case have been detained under Act, 14 and the allegation against the petitioner is that he assaulted the deceased with stones. Hence, he opposed to grant bail to the petitioner.

5. Taking into consideration the facts and submissions made by the learned counsels and the fact that the main accused in this case have been detained under Act, 14 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 District Munsif-cum-Judicial Magistrate, Madhavaram, 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 Villupuram and report before the Villupuram Town Police Station 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.

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

-sd/-

09/11/2020

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, MADHAVARAM.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
MADHAVARAM POLICE STATION,
CHENNAI.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI,
CHENNAI

CC to M/S.C.MANIKANDAN Advocate on payment of necessary charges

CRL OP.17402/2020

Date :09/11/2020

RVR 10/11/2020