

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

CRL.O.P.No.17285 of 2020

V.Sasikumar
S/o.Vinayagam

.. Petitioner/Accused

/versus/

The State rep by,
The Inspector of Police,
Kadampuliyur Police Station,
Kadampuliyur,
Panruti – 607 103.
Crime No.1151 of 2020

.. Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., praying to enlarge the petitioner on bail in Crime No.1151 of 2020 on the file of the respondent Police.

For Petitioner : Mr.R.Ganesh Kumar

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 13.09.2020 for the offence punishable under Sections 294(b) and 302 of IPC, on the file of the respondent police, seek bail.

2. The case of the prosecution is that the defacto complainant's husband (deceased) was affected with mouth cancer. It is alleged that on 09.09.2020 at about 08.00 p.m., there was wordy altercation between the deceased and the brother of the petitioner as both were under the influence of intoxication and they were separated by the persons in the wine shop. On 10.09.2020 at about 11.00 a.m., the petitioner met the deceased in a open space and it is alleged that the petitioner assaulted the deceased with a wooden log on his head and on the back side, on the intervention of others, they got separated. Thereafter, on 11.09.2020, the deceased fell ill and got admitted in a private hospital, thereafter, he was referred to Rajiv Gandhi Government Hospital, Chennai and he died on 12.09.2020 at about 02.35 p.m.

3. The learned counsel for the petitioner submitted that on 10.09.2020 at about 11.00 a.m., there was a quarrel between the petitioner and the deceased in a open space, on the intervention of others, they got separated. Initially, the case was registered under Section 174(1) Cr.P.C., and later altered to Sections 294(b) and 302 IPC. The deceased was affected by the mouth cancer due to which he would have fallen ill. The petitioner is an innocent person and nothing to do with the alleged offences. The petitioner was arrested on 12.09.2020 and he has no bad

antecedents and no previous case. Therefore, he prayed for grant of bail for the petitioner.

4. The learned Additional Public Prosecutor produced the Post-Mortem report and submitted that the on 10.09.2020 at about 11.00 a.m., the petitioner met the deceased in a open space and assaulted the deceased with wooden log on his head and back side, on the intervention of the people, they got separated. On 11.09.2020, the deceased fallen ill, admitted in hospital and he died on 12.09.2020. He further submitted that the Post-mortem report clearly shows that the deceased died due to the injuries sustained by him by the assault made by the petitioner. Hence, he vehemently opposed for grant of bail to the petitioner.

5. Considering the rival submissions and the period of incarceration, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(a) the petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison in which the petitioner has been confined on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only), within a period of 15 days from the date of receipt of a copy of this order, failing which the bail granted by this Court shall stand dismissed automatically;

(c) 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;

(d) the petitioner shall stay at Arokkanam and report before the Inspector of Police, Arakkonam Town Police Station, Arakonam daily at 10.30 a.m for a period of two weeks and thereafter as and when required for interrogation.

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

(f) the petitioner shall not abscond either during investigation or trial;

(g) the petitioner shall not tamper with evidence or witness either during investigation or 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.

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

05.11.2020

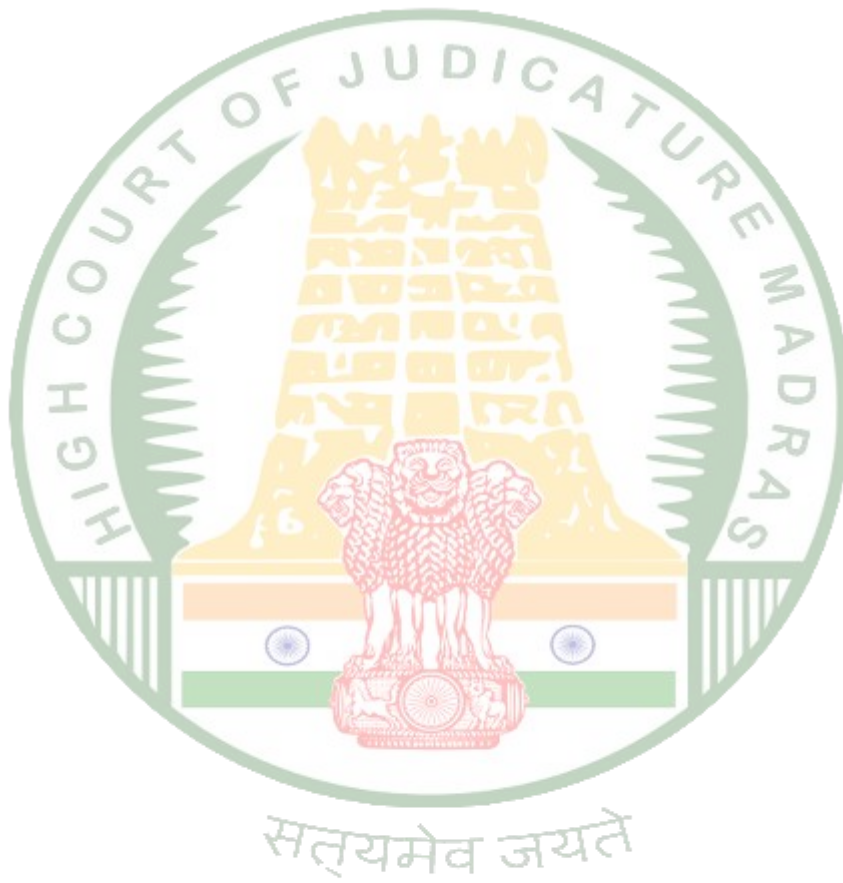
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To

1. The Judicial Magistrate No.II,
Panruti.

2. The Superintendent, Sub Jail,
Cuddalore.

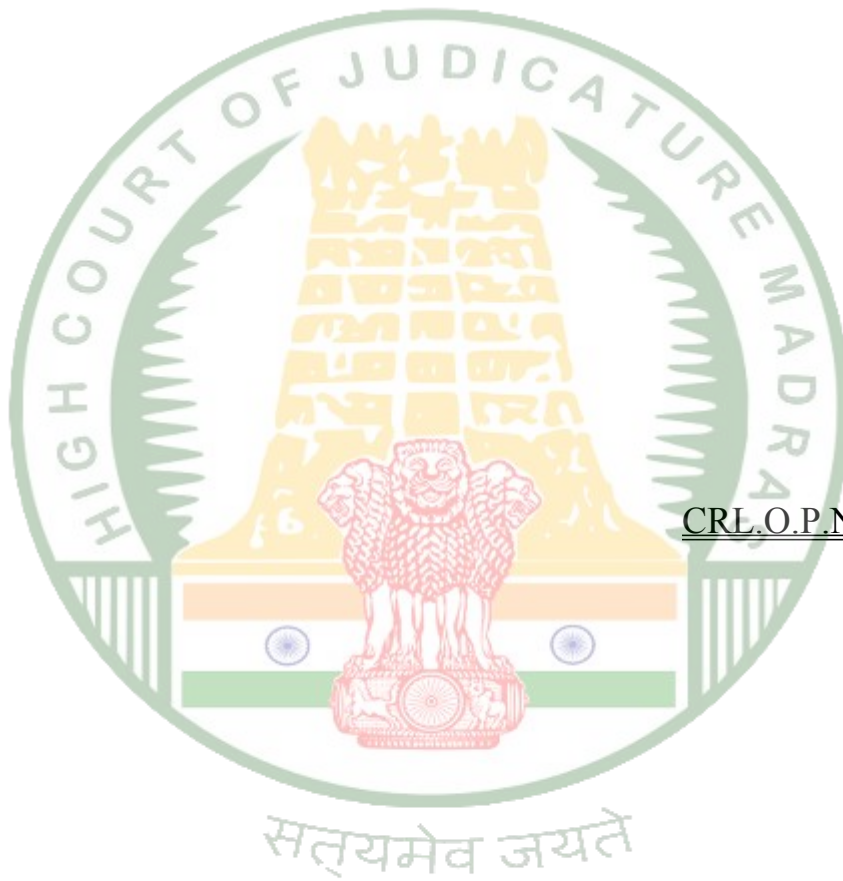
3. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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