

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 17590 of 2020

Anwar Bhasha @ Anwar

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
M-4, Thudiyalur Police Station,
Coimbatore City.
(Crime No.1790 of 2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to
enlarge the petitioner on bail in Crime No. 1790 of 2020, on the file
of the respondent police.

For Petitioner : Mr.R.John Sathyan

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

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial
custody on 04.10.2020 for the offences punishable under Sections 147,
148, 294(b), 324, 307 of IPC @ Sections 147, 148, 294(b), 324,
302,IPC, in Crime No. 1790 of 2020 on the file of the respondent
police, seeks bail.

2. The case of the prosecution as per the defacto
complainant viz., Kannan is that due to previous enmity on account of
business rivalry, the petitioner along with two other named accused
and three unnamed accused committed the murder of one Nagaraj, his
friend. Originally a case was registered for the offences under
Section 147, 148, 294(b), 324, 307 IPC and since the victim succumbed
to the injuries after four days, it was altered to one under Section
302 IPC.

3. The learned counsel appearing for the petitioner would
submit that the the petitioner is innocent and he has been falsely
implicated in this case. He would further submit that even as per
F.I.R., the incident alleged to have taken place in front of the
house of the petitioner and the victim and his friends are the

aggressors and as per F.I.R,. on the previous day i.e. 27.09.2020, the deceased along with his friends assaulted the petitioner and on the next day, they have come to the house of the petitioner to create a quarrel and problem and the incident is alleged to have happened during the quarrel. He would further submit that originally a case was registered for the offences under Section 147, 148, 294(b), 324, 307 of IPC and since it was during Covid-19 period, treatment was not properly given to the victim and thereby he succumbed to injuries after four days. He would further submit that the petitioner was arrested on 04.10.2020 and he is in custody for more than 45 days.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that there was previous enmity between the accused and the deceased on account of business rivalry. He would further submit that on the previous day, there was a quarrel and on 28.09.2020 the victim along with his friends had gone to the house of the petitioner to strike peace, during which, the accused and his friends had committed murder of the deceased by indiscriminately attacking him with Aruval and wooden logs. He would further submit that the victim was admitted in the hospital on 28.09.2020 and he succumbed to injuries on 03.10.2020. He would further submit that the petitioner was arrested on 04.10.2020 and the investigation is pending.

5.Heard the learned counsel on either side. Perused the materials placed on record including F.I.R.

6. Taking into consideration the facts and submissions made by the learned counsel 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.I, Coimbatore** and on further conditions that: सत्यमेव जयते

(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 Tirunelveli and report before the Tirunelveli Town 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;

(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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
20/11/2020

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,
COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE,
COIMBATORE [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

5 THE INSPECTOR OF POLICE,
M-4, THUDIYALUR POLICE STATION,
COIMBATORE
CITY.

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

+1 CC to M/S. R.JOHN SATHYAN Advocate on payment of necessary
charges 7749

CRL OP.17590/2020

Date :20/11/2020

MN-23/11/2020



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