

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.18796 of 2020

Bharathi @ Parthiban

... Petitioner / Accused -A1

Vs.

The State

Rep by the Inspector of Police,
S.H.O.Vadalur Police Station,
Vadalur,Cuddalore District.

Crime No.294 of 2019

... Respondent

Prayer: Criminal Original Petitions are filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in respect of P.R.C.No.3 of 2020 on the file of the District Munsif cum Judicial Magistrate, Kurinjipadi, Cuddalore District.

For Petitioner : Mr.S.Anburaja

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

ORDER

(These cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 20.11.2019 for the offences punishable under Sections 120(b), 147, 148, 352, 324, 326, 307 and 302 IPC r/w 149 of IPC, in Crime No.294 of 2019, on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant Udhayakumar is that the accused due to previous enmity, committed the murder of his brother-in-law Amarnath while he was returning from jail after being acquitted by the Court in a murder case.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case based on the confession of the arrested accused whose names are found in the F.I.R. The learned Counsel would submit that the name of the petitioner does not find place in the F.I.R. However, he was arrested and remanded to judicial custody on 20.11.2019 and he has been suffering incarceration for more than a year. The learned Counsel would further submit that the investigation has been completed and the final report has been filed and the case was initially taken on file in P.R.C.No.3 of 2020. Thereafter, since some of the accused were absconding, the case as against the petitioner has been split up and committed to the Court of Sessions for trial in

S.C.No.55 of 2020. He would further submit that the petitioner has to engage a Counsel to defend his case during trial and that he is prepared to abide by any stringent condition. He would further submit that co-accused in this case have been granted bail by this Court vide Crl.O.P.Nos.15770 and 16486 of 2020 by order dated 09.11.2020. Hence, he prays for grant of bail.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner along with other accused, due to previous enmity on account of gang rivalry, committed the murder of one Amarnath. He would further submit that though the petitioner's name is not found in the F.I.R., he has also participated in the offence which has been confirmed by the statement of the other accused. He would further submit that some of the accused who were granted bail, did not appear before the lower Court. Thereby, NBW has been issued against them and insofar as the petitioner is concerned, the case has been split up and it has been committed to the Court of Sessions in S.C.No.55 of 2020 by the learned Principal District and Sessions Judge, Cuddalore.

5.Taking into consideration of the facts and submissions made by the learned counsels and the fact that the case has been committed to the Court of Sessions and the co-accused have been granted bail by this Court and also considering the period of incarceration suffered by the petitioner from 20.11.2019, 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.15,000/- (Rupees Fifteen Thousand only) with two sureties, each for a like sum to the satisfaction of the learned District Munsif Cum Judicial Magistrate, Kurinjipadi, Cuddalore District, 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 shall appear before the learned Principal District and Sessions Judge, Cuddalore, on all working days 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, these Criminal Original Petitions are ordered.

-sd/-

07/12/2020

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, KURINJIPADI,
CUDDALORE DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
S.H.O. VADALUR POLICE STATION,
VADALUR, CUDDALORE DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

6 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, CUDDALORE

CC to M/S.S.ANBURAJA Advocate on payment of necessary charges
Sr.7948

CRL OP.18796/2020

Date :07/12/2020

RVR 08/12/2020

<https://hcservices.ecourts.gov.in/hcservices/>