

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.18054 of 2020

Arivu @ Arivazhagan

... Petitioner

Vs.

State by

The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi District.
(Crime No.2025 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.2025 of 2020 on the file of the respondent Police.

For Petitioner : Mr.R.Prabudoss

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 30.08.2020 for the offence punishable under Sections 394 of IPC r/w Section 397 of I.P.C., in Crime No.2025 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant/Tamizharasan is that on 28.08.2020, one Saraswathi, who is the wife of Arivu had called him over phone saying that there was fight between her and her husband, she was in Murugesan hospital and she had asked him to buy dinner for her. Thereafter, the defacto complainant had gone there and handed over dinner to Sarasu@Saraswathi, when he had returned Arivu, who is the husband of Sarasu@Saraswathi and yet another persons waylaid him and threatened to kill him and taken away his jewels, mobile phone and Rs.4000/-cash. Thereafter, on the instigation of Saraswathi, the other accused have assaulted him with knife. Hence, the case was registered.

3.The learned counsel for the petitioner would submit that the petitioner and the defacto complainant are neighbors and they are known to each other and that due to previous enmity, a false complaint was given against the petitioner. He would further submit that a very reading of the FIR would show that it is a false complaint. Based on the false complaint, the petitioner was arrested and proceedings against him were initiated by the Revenue Divisional Officer and the petitioner was convicted under Section 122(b) of Cr.P.C. As against the same, the petitioner has filed Criminal Revision Petition in CrI.R.C.No.851 of 2020 and this Court by order dated 14.10.2020 in CrI.M.P.No.5962 of 2020, has granted suspension of sentence. He would further submit that the petitioner is in custody from 30.08.2020 and that the petitioner is prepared to abide by any stringent condition that may be imposed on him. Hence, he prays for grant of bail to the petitioner.

4.The learned Government Advocate (CrI.side) would submit that the petitioner and the defacto complainant are known to each other and that on 28.08.2020, the petitioner's wife had called the defacto complainant to come and give dinner at Murugasan hospital when he had gone there, the petitioner and his wife and his relatives have assaulted him and robbed his jewelry, cell phone and cash. He would submit that the petitioner was already convicted by the learned Sessions Court for the offence under Section 302 of IPC and when he was under suspension of sentence, he has involved himself in this offence. He would further submit that the proceedings were initiated against the petitioner by RDO and the petitioner was convicted under 122(b) of Cr.P.C. Further, he would submit that the petitioner has filed revision petition challenging the conviction order and that this Court has also granted suspension of sentence to him. However, he opposed for grant of bail to the petitioner.

5.At this juncture, the learned counsel for the petitioner would submit that as stated earlier, it is a case foisted only for the purpose to detain the petitioner and that the defacto complainant and his family members have achieved the same.

6.Heard both sides and perused the First Information Report.

7.Taking into consideration of the facts and circumstances of the case, 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, Kallakurichi 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 report before respondent police everyday at 10.30 a.m. and 05.30 p.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;

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

8. 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,
KALLAKURICHI.

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

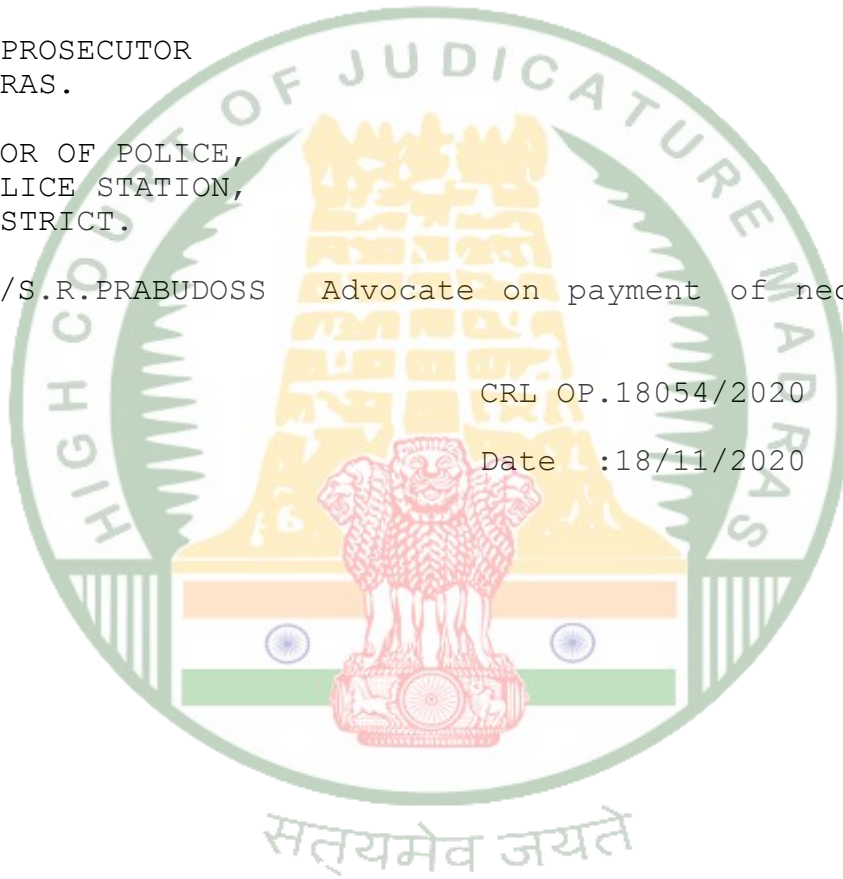
5 THE INSPECTOR OF POLICE,
KALLAKURICHI POLICE STATION,
KALLAKURICHI DISTRICT.

CC to M/S.R.PRABUDOSS Advocate on payment of necessary
charges

CRL OP.18054/2020

Date :18/11/2020

MK:19/11/2020



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