

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.11.2020

CORAM :

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

CRL.O.P.No.17798 of 2020

Bhuva @ Aravindasamy

... Petitioner

Vs.

State Rep by:-

The Station House Officer,
Villianur Police Station,
Puducherry.

(Crime No.490 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.490 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.S.Venkatesh

For Respondent : Mr.Bharathachakkaravarthy
Additional Public Prosecutor (Puducherry)

O R D E R

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 27.08.2020 for the offences punishable under Sections 148, 341, 302, 109 of IPC r/w Section 149 of IPC, in Crime No.490 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the *de facto* complainant Perumal is that A1 in this case have encroached upon a temple land and since it was questioned by the deceased Manikandan @ Ramakrishnan/brother of the *de facto* complainant, the accused had, on 27.08.2020 waylaid him and assaulted him indiscriminately with knife, due to which, he sustained injuries and died on the spot.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the allegation against the petitioner is that he was also one of the members of the unlawful assembly and even as per the FIR, the *de facto* complainant is only the hearsay witness and he has not seen the occurrence. He would submit that the petitioner was arrested on 27.08.2020 and he is in custody for more than 70 days. Hence, he prays for grant of bail to the petitioner.

4.The learned Additional Public Prosecutor (Puducherry) would vehemently oppose the grant of bail stating that A1 in this case had encroached upon the temple land and it was questioned by the deceased/brother of the *de facto* complainant, the accused waylaid him and attacked him indiscriminately with deadly weapons, due to which, he sustained injuries and died on the spot. He would submit that the allegation against this petitioner is that he had blocked the deceased and had helped the other accused to assault the victim. He would submit that there is no previous case against the petitioner.

5. Taking into consideration the facts and submissions made by the learned counsels and 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-III, Puducherry 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 Karaikal and report before the Karaikal 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/-

10/11/2020

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.III,
PUDUCHERRY.

2 THE CHIEF JUDICIAL MAGISTRATE
PUDUCHERRY [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUDUCHERRY.

4 THE PUBLIC PROSECUTOR
PUDUCHERRY.

5 THE STATION HOUSE OFFICER,
VILLIANUR POLICE STATION,
PUDUCHEERY.

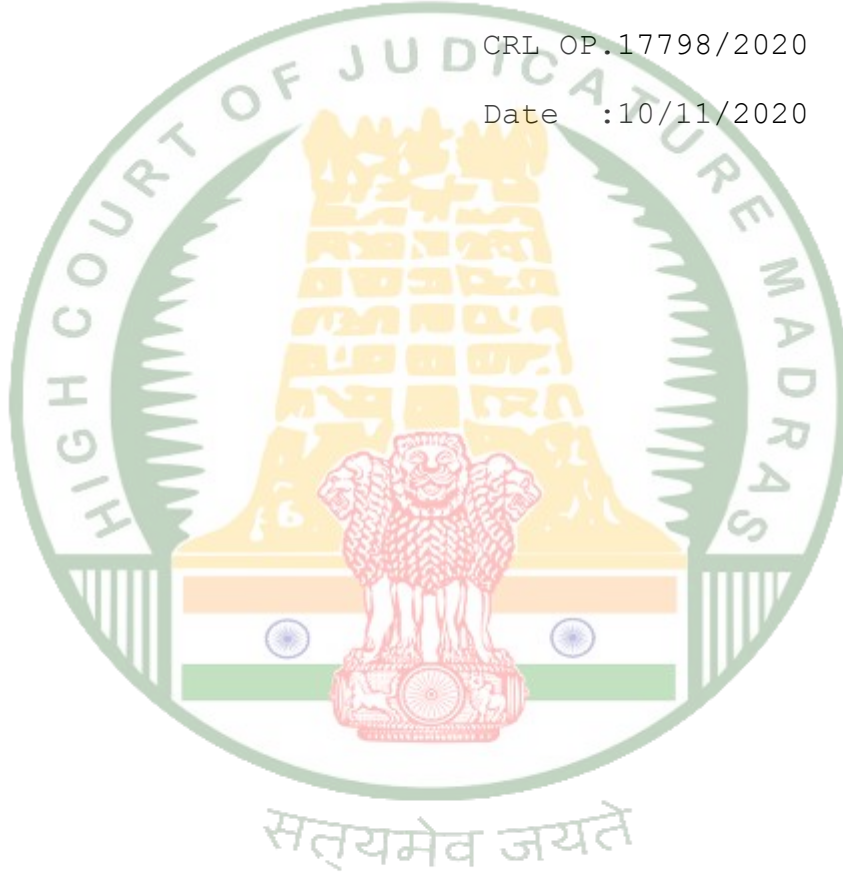
6 THE OFFICER INCHARGE,
KARAIKAL TOWN POLICE STATION,
KARAIKAL.

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

CRL OP.17798/2020

Date :10/11/2020

MK:11/11/2020



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