

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.OP.No.17931 of 2020

Jayabalaji @ Akash

... Petitioner

Vs.

State rep. By its
The Station House Officer
Thirunallar Police Station
Karaikal,
(Cr. No.169 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., praying to enlarge the petitioner on bail pending investigation in Crime no.169 of 2020 on the file of the Station House Officer, Thirunallar Police Station, Karaikal.

For Petitioner : Mr.A.Murugavel

For Respondent : Mr.M.Mohammad Riyaz
Additional Public Prosecutor

O R D E R

(This case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 12.09.2020 for the offences punishable under Section 302 IPC r/w 34 IPC, in Crime No.169 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant is that at about 0900 hours, the accused had come in front of the house of the defacto complainant and had stopped the two wheeler and raised the accelerator and also created disturbance. When the defacto complainant's husband gone out of the house, 1st accused had attempted to run over the bike on the defacto complainant's husband. The defacto complainant's husband had informed that he is going to give complaint against the accused and thereafter he gone to the shop to buy cigarettes. By that time the accused waylaid him and when he was coming to his house the accused assaulted him and pushed him. Due to which he fell down and sustained injuries. Thereafter, the defacto complainant's husband was taken to the hospital, there he was declared brought dead.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case and he happens to be the friend of the 1st accused-Magendran. He would further submit that the said Magendran had love affair with the defacto complainant's daughter and that due to which there was a quarrel and during the quarrel the 1st accused had pushed her husband and he fell down, sustained injuries. The petitioner only accompanied the 1st accused and other than that there is no allegation available as against the petitioner. He would submit that there was no intention on the part of A1 to commit the murder and no weapon was used in the incident. It had happened during a sudden quarrel. The petitioner was arrested on 13.09.2020 and in judicial custody for the past two months. Thereby he seeks bail to the petitioner.

4.The learned Additional Public Prosecutor would vehemently oppose stating that the petitioner is friend of one Magendran and they were teasing the daughter of the defacto complainant and that on 11.09.2020 the defacto complainant's husband had wanted to give complaint as against the 1st accused. At that time, the 1st accused and the petitioner waylaid the deceased and assaulted him. Due to which he fell down and sustained injuries on the head and the deceased was taken to the hospital and where he was declared brought dead. Further the 1st accused is the person who has assaulted the deceased and no weapon was used in the incident and the petitioner has no previous case.

5.Heard the learned counsel on either side.

6.Taking into consideration of the facts and circumstances of the case and the submissions made by the learned counsels 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 Judicial Magistrate-II, Karaikal 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 stay at Pondicherry and report before the D.Nagar Police Station, everyday at 10.30 a.m., and 05.00 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;

(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.

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

-sd/-
11/11/2020

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.II,
KARAIKAL.

2 THE CHIEF JUDICIAL MAGISTRATE
PUDUCHERRY [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, KALAPET,
PUDUCHERRY.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

WEB COPY

5 THE STATION HOUSE OFFICER,
THIRUNALLAR POLICE STATION,
KARAIKAL

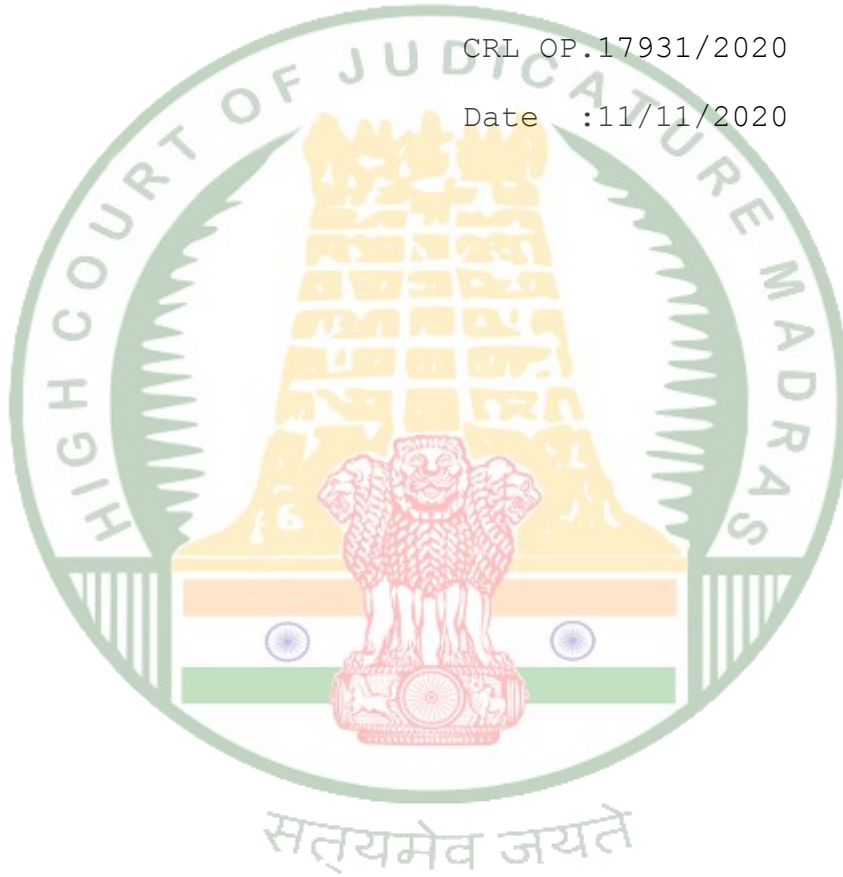
6 THE OFFICER INCHARGE,
D.NAGAR POLICE STATION,
PONDICHERRY.

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

CRL OP.17931/2020

Date :11/11/2020

MK:18/11/2020



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