

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.12.2020

CORAM :

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

CRL.O.P.No.19035 of 2020

[*]Rakki @ Balaji

... Petitioner

Vs.

The State Rep by
The Inspector of Police
E-5, Sholavaram POLICE STATION,
Crime No.4719 of 2020.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.4719 of 2020 on the file of the respondent.

For Petitioner : Mr.M.Vinoth

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

[IN CRL.OP.NO.19035/2020]

For Respondent : MR.M.MOHAMED RIYAZ,
ADDITIONAL PUBLIC PROSECUTOR

[IN CRL.MP.NO.8798/2020]

IN CRL.OP.NO.19035/2020]

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 14.10.2020 for the offence punishable under Sections 147, 148, 302 and 506(2) IPC, in Crime No.4719 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant Murugan is that on 15.08.2020 at about 12 noon his elder son Somasundaram had gone out with his friends. Since, he had not returned to home till evening, at about 5.30 p.m., the younger son of the defacto complainant had gone to bring his brother back. At that time, he had seen some unknown persons who had come in three motorcycles, waylaid his brother Somasundaram and assaulted him indiscriminately with Machetes and Knives due

to which he sustained cut injuries all over the the body and died on the spot. Based on the complaint, the case was registered against unknown persons on 15.08.2020. Later, during the course of investigation, it came to light that the petitioner along with other accused committed the murder due to gang rivalry.

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 since he happens to be known to the main accused. He would submit that the petitioner is arrayed as A5 in this case and he has been implicated based on the confession of the arrested accused. He would further submit that on coming to know about the false implication of the petitioner in this case, the petitioner voluntarily surrendered before the XVIII Metropolitan Magistrate, Saidapet, on 18.09.2020 and he has been suffering incarceration for more than 80 days. Hence, he prays for grant of bail.

4.The learned Government Advocate (Cl.Side) appearing for the respondent would vehemently oppose stating that the petitioner is a member of a notorious gang. There was a gang rivalry between two gangs. One gang belongs to the accused Sethupathy and the other gang belong to one Muthu Saravanan. Due to which, the petitioner along with other accused waylaid the son of the defacto complainant and cut him indiscriminately with Machetes and Knives due to which, he succumbed to injuries at the same spot. He would further submit that the accused have inflicted serious injuries on the face and decimated the face. He would further submit that the investigation is pending and there is no other case against the petitioner.

5. Heard both sides and perused the F.I.R.

6.Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsels and the fact that the name of the petitioner is not found place in the F.I.R and he had voluntarily surrendered before the Court on 18.09.2020 and also considering his period of incarceration, 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-II, Ponneri, 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 Nagercoil and report before the Kottar Police Station, everyday at 10.30 a.m. until further orders. The petitioner shall not enter into the jurisdictional limits of the respondent police 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 stands ordered.

-sd/-
10/12/2020

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.

[*]Amended and Time granted by this Court to comply with the conditions imposed vide order dated 10.12.2020 in CrI.O.P.No.19035 of 2020 is extended for a period of two weeks from the date on which the amended copy of the order is made ready, as per order of this Court dated 23/12/2020 made in CRL.MP.NO.8798 OF 2020 IN CRL.OP.NO.19035 OF 2020

TO

[*]1 THE JUDICIAL MAGISTRATE-II,
PONNERI.

2 THE JUDICIAL MAGISTRATE-I,
PONNERI.

3 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
E-5, SHOLAVARAM POLICE STATION,

6 THE SUPERINTENDENT
CENTRAL PRISON, PUZHAL

7 THE OFFICER INCHARGE,
KOTTAR POLICE STATION,
NAGERCOIL.

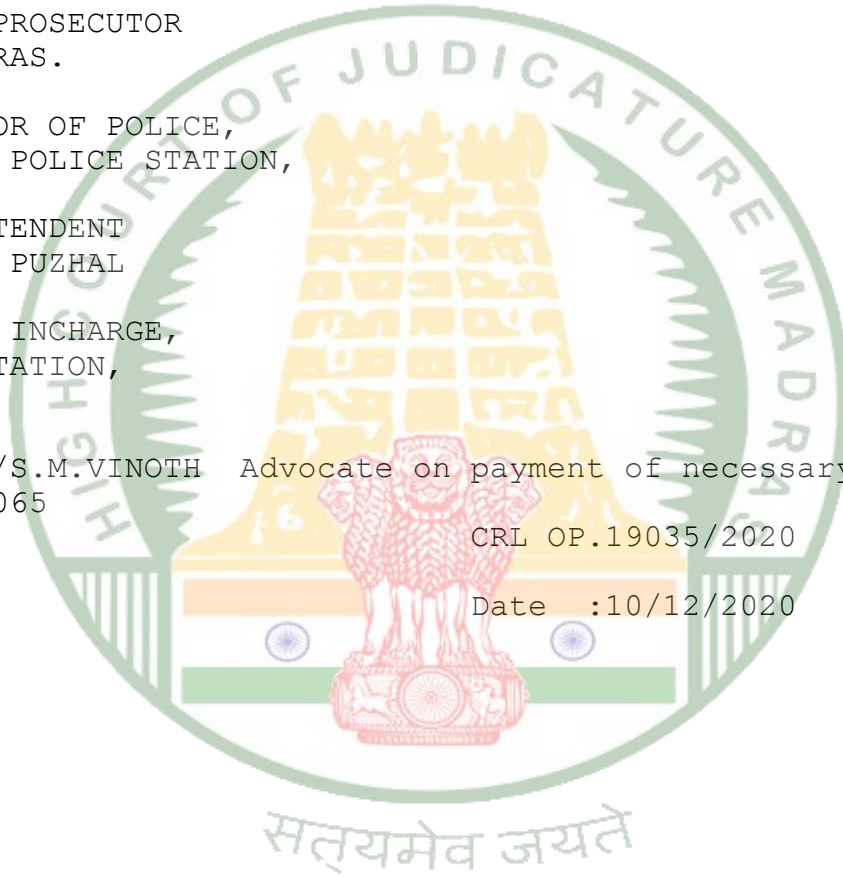
+1 CC to M/S.M.VINOTH Advocate on payment of necessary
charges SR.NO.8065

CRL OP.19035/2020

Date :10/12/2020

TA-11/12/2020

MK:31/12/2020



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