

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.19464 of 2020

1 K.Vaidyalingam
2 V.Sudhakar
3 K.Murugesan ... Petitioners

Vs

State Rep By
The Inspector of Police,
C-2 Police Station, Hasthampatty,
Salem.(Crime No.1096 Of 2020) ... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioner on bail in the event of their
arrest in Crime No.1096 of 2020 on the file of the respondent police.

For Petitioners : Mr. B.Vijay

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the
respondent police for the offences punishable under Sections 294(b),
323 and 307 of I.P.C.in Crime No.1096 of 2020,seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant
viz., Chettiyappan, is that due to a civil dispute, the 1st
petitioner, who is his elder brother K.Vaithialingam along with the
other accused had abused him with filthy language and assaulted him
with an attempt to take his life. Hence, the present complaint.

3. The learned counsel for the petitioners would submit that the
petitioners are innocent persons and the suit is pending between them
in respect of a partition of ancestral property, thereby a false
complaint has been given. The learned counsel would further submit
that they have been falsely implicated in this case. Even as per the
complaint, no case for attempt to his life is made out and the
alleged victim is stated to have been discharged from the hospital.
Therefore, he prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that
the petitioners and the defacto complainant are brothers. Due to
property dispute, the 1st petitioner has assaulted him. Due to which,
the present complaint has been filed. However, he would further
submit that the injured was discharged from the hospital. Hence, he
vehemently opposed to grant anticipatory bail to the petitioners.

5. Taking into consideration the facts and submissions of the learned Counsel and the fact that the injured has been discharged from the hospital, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

6. Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or on their appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before the learned District Sessions Court, Salem, on condition that the petitioners shall 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall report before the respondent police every Monday at 10.30 a.m., for a period of two weeks until further orders.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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].

[f] 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/-

10/12/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

TO

1 THE DISTRICT SESSIONS COURT,
SALEM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

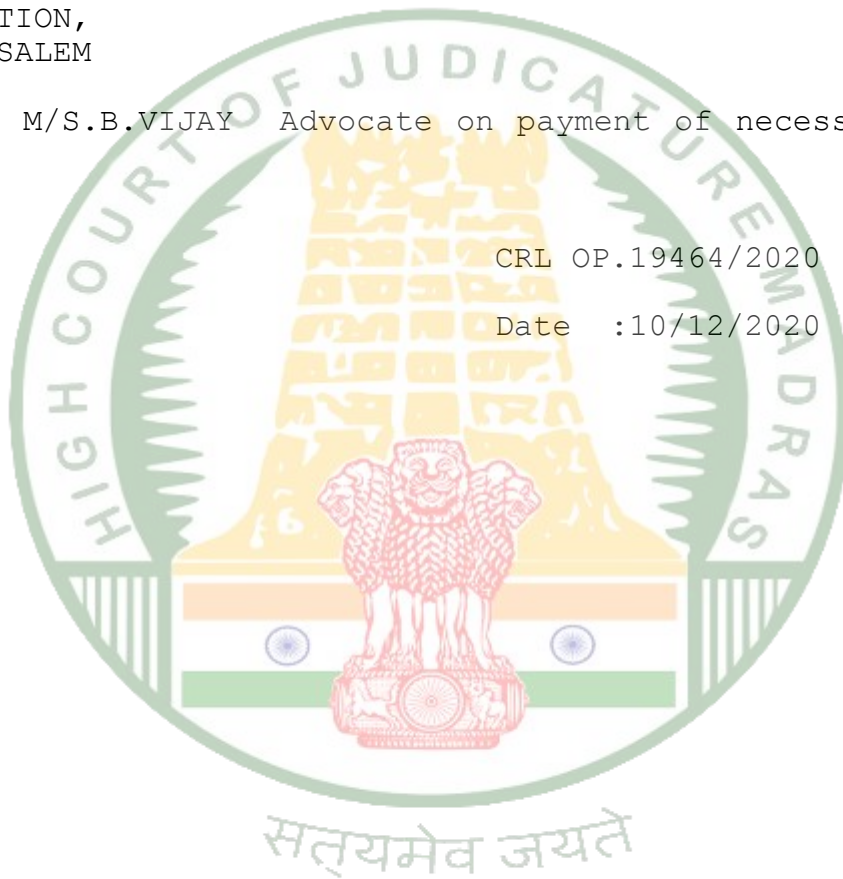
3 THE INSPECTOR OF POLICE,
C-2 POLICE STATION,
HASTHAMPATTY, SALEM

+3 CC to M/S.B.VIJAY Advocate on payment of necessary charges
SR.8180

CRL OP.19464/2020

Date :10/12/2020

RVR 16/12/2020



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