

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.12.2020

CORAM :

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

CRL.O.P.No.19410 of 2020

MATHESHWARAN @ MATHESH

... Petitioner

Vs.

State rep by:

... Respondent

The Inspector of Police,
Kaveripattinam Police Station
Krishnagiri District
(Crime No.1200 of 2020)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.1200 of 2020 on the file of the respondent.

For Petitioner : Mr.E.Kannadasan

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 12.10.2020 for the offence punishable under **Sections 341, 294(b), 302 IPC, in Crime No.1200 of 2020** on the file of the respondent police, seek bail.

2.The case of the prosecution as per the defacto complainant Sathiyamoorthy is that on 30.08.2020, due to land dispute, the accused waylaid the father of the defacto complainant Anbazhagan, abused him in filthy language, assaulted him and when he had fallen down, he fisted on his chest and strangled him due to which, the father of the defacto complainant became unconscious. Immediately, the defacto complainant along with his family members took him to Kaverippattinam Government Hospital and the doctor who examined him, declared as brought dead.

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. Admittedly, there was a land dispute between the family of the defato complainant and the petitioner and that on 30.08.2020, when the petitioner had come to his land, the defacto complainant and his family members quarrelled with the

petitioner and assaulted him and that the incident happened during the melee. Even as per the F.I.R., no weapon was used in the quarrel. He would further submit that the petitioner was originally arrested on 30.08.2020 and at the time of remand, he was found affected with Corona. Thereby, he was granted interim bail with a condition to surrender before the Judicial Magistrate-I, Krishnagiri on or before 12.10.2020. Subsequently, the petitioner surrendered before the Judicial Magistrate-I, Krishnagiri, on 12.10.2020 and that he has been in judicial custody for more than 55 days and that the major part of investigation is over. Hence, he prays for grant of bail.

4.The learned Government Advocate (Cl.Side) appearing for the respondent would vehemently oppose stating that due to land dispute, the petitioner waylaid the deceased assaulted him and when he had fallen down, he fisted on his chest and strangulated him due to which, the victim died. He would further submit that the investigation is completed and the respondent is ready to file the charge sheet.

5. Heard the learned Counsels on either side and perused the materials placed on record.

6.Taking into consideration of the facts and submissions made by the learned counsels and the fact that the investigation is completed and the respondent is ready to file final report 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 **learned Judicial Magistrate-I, Krishnagiri**, 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 appear before the learned Judicial Magistrate-I, Krishnagiri, 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.

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

-sd/-
09/12/2020

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.

TO

1 THE JUDICIAL MAGISTRATE-I,
KRISHNAGIRI.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KAVERIPATTINAM POLICE STATION,
KRISHNAGIRI DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

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

CRL OP.19410/2020

Date :09/12/2020

MN-11/12/2020

<https://hcservices.ecourts.gov.in/hcservices/>