

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.12.2020

CORAM :

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

CRL.O.P.No.19605 of 2020

Radhakrishnanan

... Petitioner

Vs.

State rep. by

... Respondent

The Inspector of Police,
Eravanchery Police Station,
Tiruvarur District.
(Crime No.761 of 2020)

Prayer: Criminal Original Petition is filed under Section 439 of Cr.P.C, to enlarge the petitioner on bail in Crime No.761 of 2020 on the file of the respondent police.

For Petitioner : Mr.D.Gubendra Gunabalan

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 147, 148, 341 and 302 of IPC, in Crime No.761 of 2020, seeks bail.

2. The case of the prosecution as per the *de facto* complainant Prabakaran is that his father was the Panchayat President of Manavalanallur and before five months, there was a dispute between the *de facto* complainant's family and the family of one Amudha, due to drainage problem, in respect of which, the case was pending on the file of the Eravanchery police station against the *de facto* complainant, due to which, the husband of the said Amutha was antagonized, he had declared that he would take revenge. While so on 08.10.2020 around 7.30.p.m, the father of the *de facto* complainant was returning from the Panchayat Office in his two wheeler PASSION PRO, when he was crossing Selva Agencies, some named hirelings Santhosh S/o.Ravichandran, Jagan @Mahajagan S/o.Mahalingam

waylaid the *de facto* complainant's father and cut him indiscriminately with Machetes. At that time, the other accused namely Magesh @ Magendran, Abishek, Thennarasu and Kalis @ Kaliswaran and Radhakrishnan were found to stand with dangerous weapons and that the occurrence was witnessed by the *de facto* complainant and his cousin from a distance. After the incident, the accused were ran away form the scene of occurrence and that the *de facto* complainant had taken his father to hospital, where he was declared as 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. He would submit that the petitioner was not at all present at the scene of occurrence, whereas a false complaint has been given as if the petitioner was also present along with the other accused and that the petitioner was found with a weapon. He would submit that even as per the FIR, the accused Santhosh and Jagan @ Mahajagan are stated to have caused injuries on the victim and that the petitioner has not even touched the victim and there is nothing to show that the petitioner shared common intention to commit the murder of the victim. He would submit that the petitioner, coming to know that he has been falsely implicated in this case, surrendered before the learned Judicial Magistrate, Nannilam on 12.10.2020. He would reiterate that there is absolutely no allegation against the petitioner as if he caused injuries to the victim.

4. The learned Government Advocate (Crl. Side) appearing for the respondent police would vehemently oppose stating that the petitioner is a habitual offender against whom, there are several cases and that he was engaged by the main accused and taken to the scene of occurrence. He would submit that the petitioner along with the other accused waylaid the father of the *de facto* complainant and the main accused caused injuries to the victim and that the petitioner is a hireling, who has been engaged by the main accused.

5. Heard the learned counsel on either side and perused the entire materials available on record.

6. Taking into consideration the facts and circumstances of the case and the submissions of the learned Counsels and the fact that even as per the FIR, the petitioner found in possession of weapon at the time of occurrence and nothing has been stated that the petitioner caused any injuries on the victim 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 District Munsif-Cum-Judicial Magistrate, Nannilam, 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 the prison, shall stay at Nagercoil and report before the Kottar 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.

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

-sd/-

22/12/2020

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 DISTRICT MUNSIF-CUM-JUDICIAL MAGISTRATE,
NANNILAM.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ERAVANCHERY POLICE STATION,
TIRUVARUR DISTRICT.

5 THE JAILER,
DISTRICT PRISON, NAGAPATTINAM.

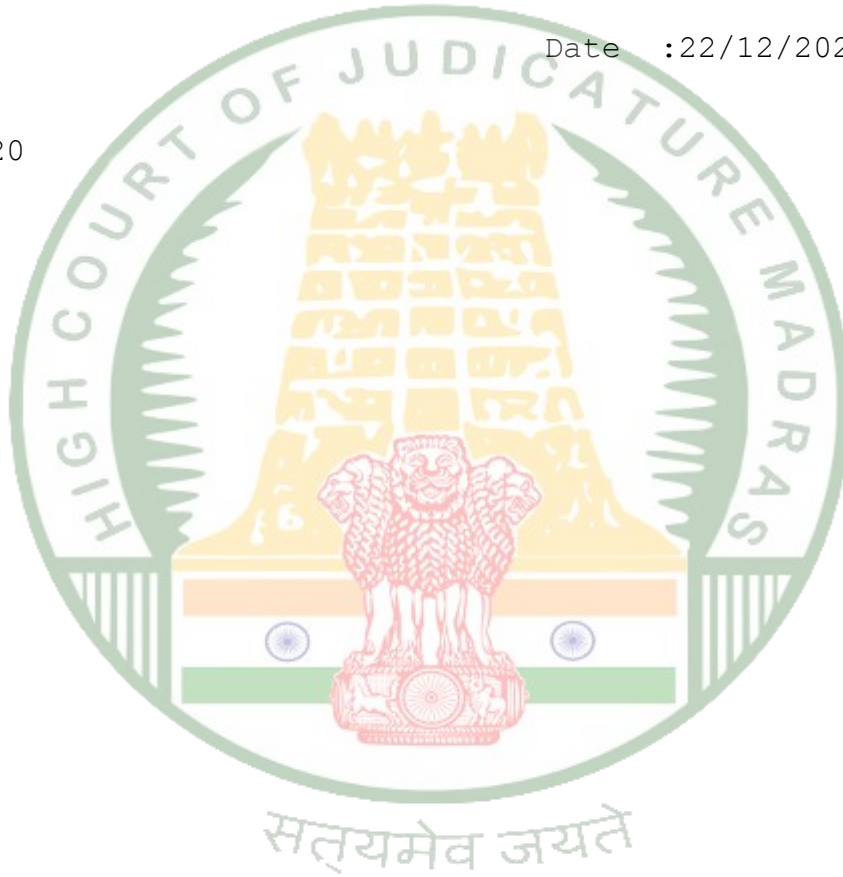
6 THE OFFICER INCHARGE,
KOTTAR POLICE STATION,
NAGERCOIL.

+1 CC to M/S D.GUBENDRA GUNABALAN Advocate on payment of
necessary charges SR.NO.8579

CRL OP.19605/2020

Date :22/12/2020

TA-23/12/2020



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