

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.12.2020

CORAM :

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

CRL.O.P.No.20600 of 2020

Paiross @ Mattan

... Petitioner

Vs.

State Rep by
The Inspector of Police,
Thiruvennainallur Police Station,
Villupuram District.
(Crime No.1681 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.1681 of 2020 on the file of the respondent police.

For Petitioner : Mr.N.Ranjith Kumar

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

For Intervenor : Mr.Balamanikandan

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 02.11.2020 for the offences punishable under **Sections 147, 341, 120(B), 302, 34 of IPC, in Crime No.1681 of 2020**, on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant Dhilshath is that on 31.10.2020 at about 1.30 p.m., while her husband Khaleel was coming in two wheeler, three persons waylaid him and assaulted him indiscriminately with Machete, due to which he died. During the course of investigation, it came to light that due to a property dispute between the sons born to two different wives of one Nanneaba, the accused have pre-planned and committed the murder.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case based on the alleged confession recorded

from the arrested accused. He would further submit that even as per the F.I.R. only three persons stated to have inflicted cut injuries on the deceased, due to which, he succumbed to death. He would further submit that co-accused in this case has been granted bail by this Court in Crl.O.P.No.17020 vide order dated 04.12.2020 and some other accused viz. Begam Bee @ Begam Bee, Johara Bee @ Joharana and N.Nabibasha have been released on bail by this Court vide order dated 18.12.2020 in Crl.O.P.Nos.19649 & 20314 of 2020. He would further submit that the petitioner has been implicated only based on the existing property dispute between the defacto complainant and family of the petitioner. He would further submit that the petitioner was arrested on 02.11.2020 and he is in custody and would pray for grant of bail.

4.The learned Government Advocate (Criminal Side) would vehemently oppose stating that due to a property dispute, the petitioner had engaged the main accused to commit the murder and based on the instigation of other accused, they had committed murder of the husband of the defacto complainant. He would further submit that investigation is pending.

5.Mr.Balamanikandan, the learned counsel appearing for the intervener would state that the incident had happened due to the instigation of this petitioner and he is the main culprit who has engaged the other accused to commit the murder and that the victim was brutally murdered, accordingly, oppose for the grant of bail.

6.Taking into consideration of the facts and circumstances of the case and the submissions made by the learned counsels and the fact that the co-accused in this case has been granted bail by this Court and also taking into consideration 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 No.II, Ulundurpet**, 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 Ramanadapuram and report before the Ramanathapuram Town 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/-
23/12/2020

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,
NO.II, ULUNDURPET.

2 THE CHIEF JUDICIAL MAGISTRATE
VILUPPURAM [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
TIRUVENNAIALLUR POLICE STATION,
VILLUPURAM.

5 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

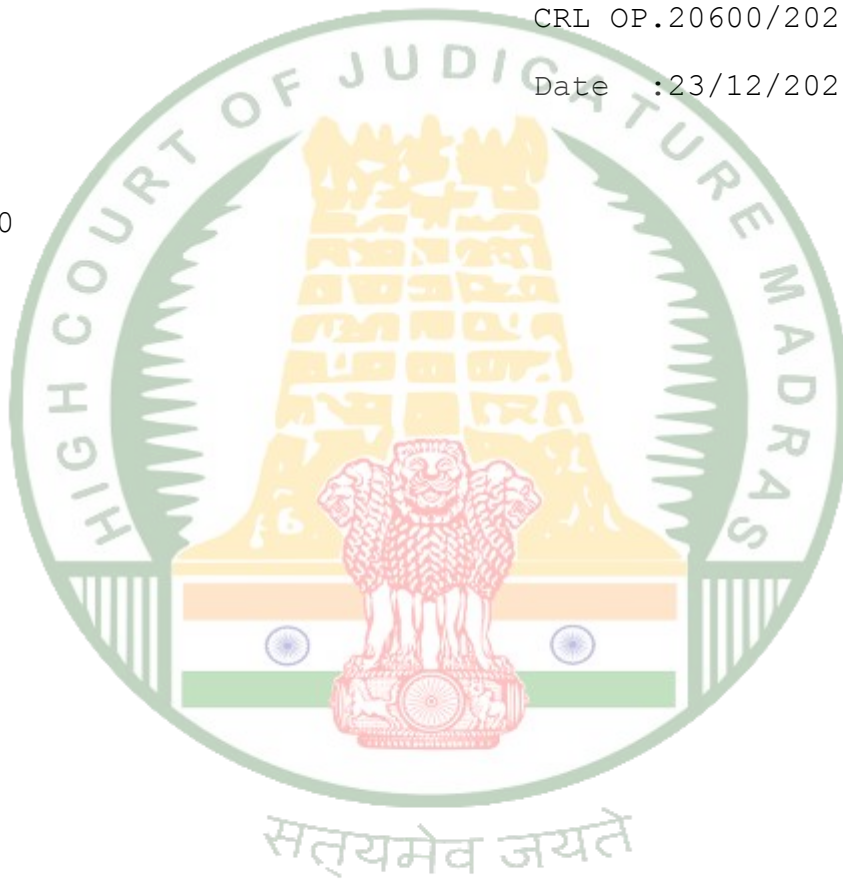
6 THE OFFICER INCHARGE,
RAMANATHAPURAM TOWN POLICE STATION,
RAMANATHAPURAM.

CC to M/S N.RANJITH KUMAR Advocate on payment of necessary
charges

CRL OP.20600/2020

Date :23/12/2020

MN-28/12/2020



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