

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.415 of 2021

Col. Rajeev Dubey

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
C2, Elephant Gate Police Station,
Chennai.
(Crime No.916 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.916 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr. R.Baskar

For Respondent : Ms.M. Prabavathi,
APP

O R D E R

(The case has been heard through video conference)

Petitioner, who was arrested and remanded to judicial custody on 22.11.2020 for the offence punishable under Sections 120(b) & 302 IPC and Section 27(3), 29(b) & 30 of the Ams Act in Crime No.916 of 2020 and seeks bail.

2. It is a case of triple murder. Totally there are 9 accused and the petitioner is A7. The case of the prosecution is that A4, namely, Jayamala was married to one of the deceased in this case, namely, Sheethal Kumar and they have also got two daughters. Subsequently, due to matrimonial dispute, A4 left the matrimonial home and residing at her parental home at Maharashtra. Thereafter, A1 and A2, who are brothers of A4, demanded money from the deceased family, but they refused to give the amount. Hence, A1 to A4 came to Chennai and stayed in the house of A9 and on 11.11.2020, A1 to A5 went to the house of the deceased and demanded a sum of Rs.5 Crores, when they refused, they shot the husband of A4 and her father in law and mother in law by using revolver and also country made gun and caused their death and left the scene of occurrence. Thereafter, based on the complaint given by the brother of the deceased, a case has been registered against the petitioner and others.

3. The learned counsel for the petitioner would submit that the petitioner has been implicated in this case on the basis of the confession of A1. Absolutely there is no material to connect the petitioner with the murder. Admittedly, the petitioner is running a hotel in Jaipur and A1 in this case used to stay in the said hotel and befriended with the petitioner and purchased a car belonging to the wife of the petitioner/A7. Since A1 wants some revolver for self protection, being a friend, he has handed over his revolver and also said to have purchased un-licensed country made gun for them. There is no material available on record to show that the petitioner conspired with other accused or abetted other accused to commit murder. If at all the petitioner committed any offence, it is only punishable under Arms Act and there is no reason to rope him in the murder case. Hence, he seeks bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner, a retired Army Officer, who was possessing revolver, and he is not authorised to hand over the same to the accused. Knowing fully well about the criminal background of the accused, the petitioner has handed over his revolver and he has also procured unlicensed country made gun to the accused using the same, the accused persons committed murder of 3 persons. She would further submit that one of the accused is yet to be secured. At this stage, if the petitioner is released on bail, he may abscond and also tamper the witnesses. Hence, she opposed to grant bail to the petitioner.

5. I have considered the rival submissions and perused the materials available on records carefully.

6. Petitioner is arrayed as 7th accused in this case. Admittedly, A1 to A5 entered into the house of the deceased and committed murder. From the confession of A1, it could be seen that A1 had borrowed the licensed revolver belonging to the petitioner for his personal protection and also the petitioner said to have procured an unlicensed country made gun through A8 to A1 for his personal protection. There is no material available on record to show that the petitioner also conspired along with other accused or abetted the accused for committing the crime. The only allegation against the petitioner is that he has given his licenced revolver and procured a country made gun to A1, which was later on used for committing the crime.

7. Considering the said facts and circumstances of the case 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 VIII Metropolitan Magistrate, George Town, Chennai, 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 shall stay at Chennai and report before the respondent police daily 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.

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

-sd/-

27/01/2021

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

TRUE COPY

सत्यमेव जयते

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

WEB COPY

TO

1 VIII METROPOLITAN MAGISTRATE,
GEORGE TOWN, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

4 THE INSPECTOR OF POLICE,
C2 ELEPHANT GATE POLICE STATION,
CHENNAI.

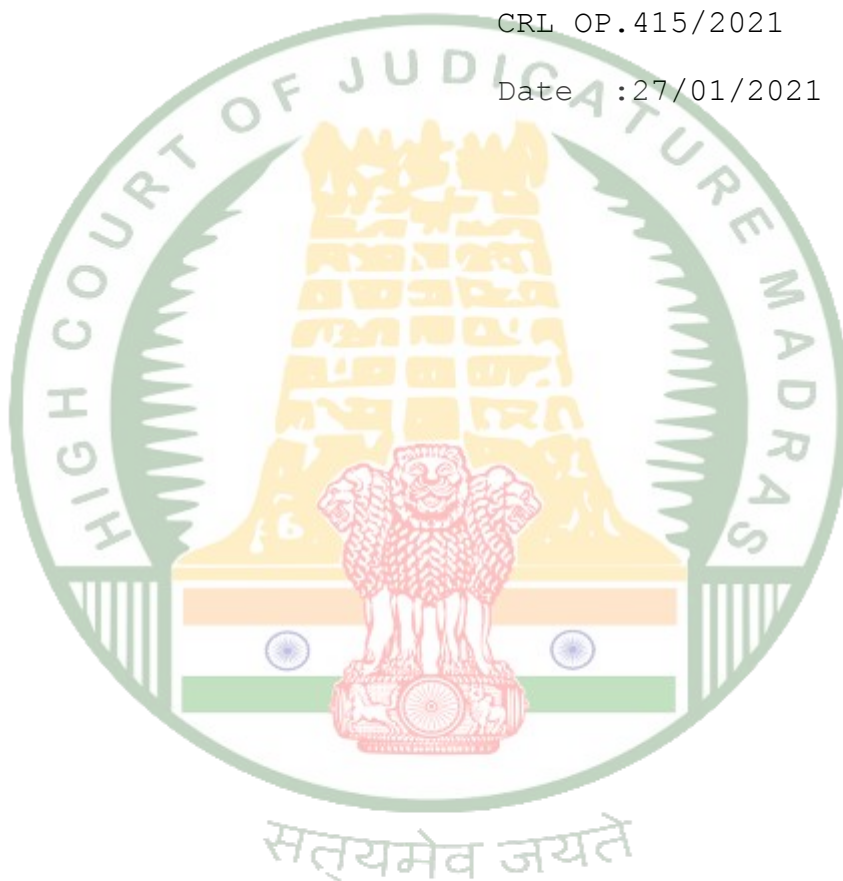
5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI

CC to M/S.R.BASKAR Advocate on payment of necessary charges
Sr.916

CRL OP.415/2021

Date :27/01/2021

RVR 29/01/2021



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