

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.3637 of 2021

Chella Esakimuthu

... Petitioner

Vs.

State Rep. by

The Inspector of Police,
E-5, Sholavaram Police Station,
Chennai.

Crime No.1122 of 2020.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail concerned in Crime No.1122 of 2020 on the file of the respondent police.

For Petitioner : Mr. M.Vinoth

For Respondent : Mrs.M. Prabhavathi,
APP

ORDER

(The case has been heard through video conference)

The Petitioner, who was arrested and remanded to judicial custody on 23.09.2020 for the offence punishable under Sections 147, 148, 341, 302 & 506(ii) of IPC in Crime No.1122 of 2020, seeks bail.

2. Totally, there are 8 accused and the petitioner is A7. The case of the prosecution is that due to previous enmity, all the accused joined together, waylaid the deceased and attacked the deceased with knife and caused his death. Hence, a case has been registered against the petitioner.

3. The counsel for the petitioner would submit that the petitioner is no way connected with the offence and only based on the confession of A1, the petitioner has been implicated in this case. He would further submit that the petitioner was arrested and remanded to judicial custody on 23.09.2020. The petitioner is in custody for more than 90 days and final report has not been filed till date. In the said circumstances, the petitioner is entitled for statutory bail under Section 167(2) Cr.P.C. Hence, he prays for grant of bail.

4.The learned Additional Public Prosecutor would submit that all the accused are rowdy elements and due to previous enmity, they attacked the deceased and committed murder. Some of the accused in this case were detained under Act 14/82. Investigation yet to be completed. Hence, she oppose to grant bail to the petitioner.

5. The case has been registered under Section 302 of IPC. The petitioner is in judicial custody for more than 90 days. Despite the lapse of statutory period, the respondent has not filed the final report and thereby, the petitioner is entitled for statutory bail u/s. 167 Cr.P.C.

6. Taking into consideration of the facts and circumstance of the case and the submissions made by the learned counsel and the fact that the respondent has not filed the final report in this case despite the lapse of statutory period, this Court is left with no other option except to grant bail. Hence, 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, Ponneri, 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 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.

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

-sd/-
24/02/2021

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, PONNERI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
E-5, SHOLAVARAM POLICE STATION,
CHENNAI.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI.

+1 CC to M/S.M.VINOTH Advocate on payment of necessary charges
SR.NO.2266

CRL OP.3637/2021

सत्यमेव जयते Date :24/02/2021

TA-25/02/2021

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