

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.4939 of 2021

Chandradeep Sharma

... Petitioner

Vs.

State Rep. by

The Inspector of Police,
C-2 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 pending investigation in Crime No.916 of 2020 on the file of the respondent police.

For Petitioner : Mr. M. Sunil Kumar

For Respondent : Mrs. M. Prabhavathi,
APP

O R D E R

(The case has been heard through video conference)

The Petitioner, who was arrested and remanded to judicial custody on 10.01.2021 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, seeks bail.

2. It is a case of triple murder. Totally there are 9 accused and the petitioner is arrayed as A8. 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. The allegation as against this petitioner is that A1 in this case, who is brother of A4, has purchased an unlicensed country made pistol from this petitioner for a sum of Rs.50,000/- for his

personal securities, later, by using the same, A1 along with other accused said to have committed murder. 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 so far as this petitioner is concerned, he has been implicated in this case only under Section 29(b) of Arms Act. Apart from that A7 was also charged for the offence under Sections 29(b) and 30 of Arms Act. The main allegation only against the other accused persons. 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 29(b) of Arms Act and there is no reason to rope him in the murder case. He would further submit that now investigation is completed, final report has been filed. The petitioner is in jail for the past 65 days. Hence, he seeks bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that it is a case of triple murder. A4 is the wife of one of the deceased. Due to some family dispute, other accused A1 to A5, trespassed into the house of the husband of A4 and shot them using the revolver and the country made pistol and thereby committed murder. So far as this petitioner is concerned, he supplied unlicensed country made pistol to A1, by using the same, they committed murder. Now, investigation is completed and final report has been filed and the matter is yet to be committed. If the petitioner is released on bail, he will definitely 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. The main allegation is only as against A1 to 5. A4 is the wife of one of the deceased. A1 to A3 are brothers and A5 is their relative. Due to family dispute, they went to the house of the husband of A4 and committed murder. So far as this petitioner is concerned, he is friend of A7, who helped A1 to purchase one country made pistol from this petitioner/A8., by using the same, the other accused said to have committed murder. 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 a country made gun to A1, which was later on used for committing the crime, and in the final report filed by the respondent, petitioner was charged only for the offence under Section 29(b) of Arms Act.

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 report before htle Committal Court on all working days 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/-

18/03/2021

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 METROPOLITAN MAGISTRATE NO.VIII,
GEORGE TOWN, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

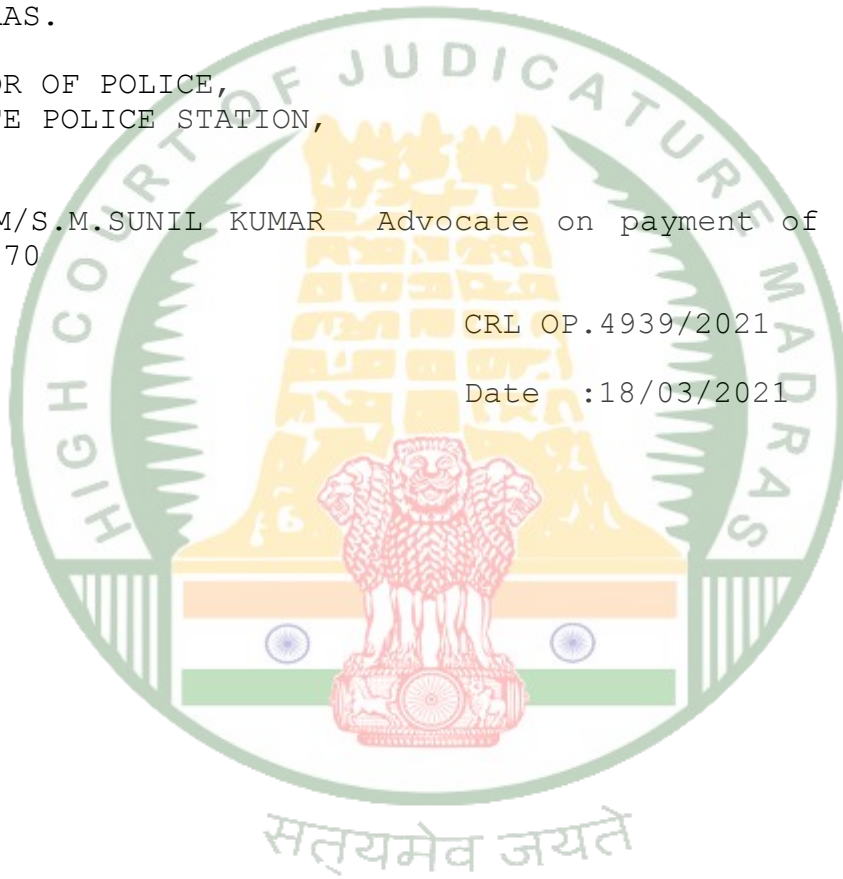
5 THE INSPECTOR OF POLICE,
C-2 ELEPHANT GATE POLICE STATION,
CHENNAI.

+1CC to M/S.M.SUNIL KUMAR Advocate on payment of necessary
charges SR NO.3570

CRL OP.4939/2021

Date :18/03/2021

MK:19/03/2021



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