

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.5673 of 2021

L.Mukesh

... Petitioner

Vs.

State rep. by
Inspector of Police,
E3 Minjur Police Station,
Tiruvallur Dt.
(Crime No.4 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Cr.No.4 of 2021 on the file of the respondent Police.

For Petitioner : Mr.M.Nithyavel

For Respondent : Mrs.M. Prabhavathi,
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

Totally, there are ten accused and the petitioner is arrayed as A5. The petitioner, who was arrested and remanded to judicial custody on 05.01.2021 for the offence punishable under Sections 147, 148, 294 (b), 307, 324, 342 and 506(ii) of I.P.C. and later altered as Sections 147, 148, 294(b), 302, 324, 342, 506(ii) and 307 of I.P.C., in Crime No.4 of 2021, seeks bail.

2. The case of the prosecution is that there was an enmity with A1 Devaraj and other accused are friends of A1. Hence, at the instigation of A1, the other accused planned to murder the said Devaraj. Earlier, they have made an attempt to commit murder, but he said to have escaped. Thereafter, on 03.01.2021 when he is consuming liquor in a TASMAC shop, A1 to A4 attacked him and caused his death. Hence, a criminal case has been registered and the petitioner was arrested on 05.01.2021. So far as this petitioner is concerned, the allegation is that the petitioner is also part of group and planned to murder the deceased and they have also provided vehicle to A1 to A4. Now, this petition has been filed seeking for bail.

3. The learned counsel appearing for petitioner would submit that the main overtact attributed against A1 to A4 and the motive is only against A1. He would submit that this petitioner is only a friend of A1 and he has been falsely implicated in this case. He would also submit that even as per the F.I.R., he only said to have provided vehicle to A1 and others and he has been falsely implicated in this case. He would submit that he is an innocent person and the petitioner is in jail from 05.01.2021. Hence, he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that all the accused have planned together and murdered the deceased. Now, A1 to A4 detained under the Goondas Act. A7 is still absconding. She would submit that the petitioner provided vehicle to other accused for committing the murder. She would submit that now the investigation is almost completed. Hence, she opposed to grant bail to the petitioner.

5. I have heard and considered the rival submissions made by learned counsel appearing for petitioner as well as learned Additional Public Prosecutor.

6. On perusal of records, it could be seen that the specific overtact is attributed only against A1 to A4 and so far as this petitioner is concerned, he is a friend of A1 and lent his vehicle to A1 and others. Taking into consideration of the facts and circumstances, and also considering the period of incarceration suffered by the petitioner from 05.01.2021, 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-II, Ponneri, 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, after his release from prison, shall report before the respondent police 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/-

22/03/2021

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 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,
E3 MINJUR POLICE STATION,
THIRUVALLUR.

5 THE SUPERINTENDENT,
CENTRAL PRISON II,
PUZHAL, CHENNAI.

+1 CC to M/S.M.NITHYAVEL Advocate on payment of necessary charges
SR.NO.3750.

CRL OP.5673/2021

Date :22/03/2021

EP-23/03/2021