

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.04.2021

CORAM

THE HONOURABLE MR. JUSTICE **M.DHANDAPANI**

Crl.O.P.No.7330 of 2021

Hariharan @ Harish

... Petitioner

Vs.

The State Represented by :-
Inspector of Police,
Magaral Police Station,
Kancheepuram District.
Crime No.16 of 2021

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C., praying to enlarge the petitioner/A1 on bail in Crime No.16 of 2021 registered by the respondent police for the alleged Non-Bailable offences pending investigation of the above crime.

For Petitioner : Mr.K.Balakrishnan

For Respondent : Mrs.M.Prabhavathi
Additional Public Prosecutor

ORDER

The petitioner who was arrested on 13.01.2021 for the offence under Section 120(b), 294(b) and 302 of IPC in Crime No.16 of 2021, on the file of the respondent police, seeks bail.

2. It is the case of the prosecution that one Lingamurthy/defacto complainant had illicit intimacy with one Amsa and the petitioner had love affair with the daughter of Amsa. The defacto complainant suspected that the petitioner may have wrong relationship with Amsa. Due to which the the defacto complainant threatened the petitioner not to visit the house of the said Amsa. For which the petitioner along with other accused persons had conspired to commit murder of the defacto complainant. The defacto complainant, while going to his home, the petitioner and one Nethaji had brutally assaulted the defacto complainant and caused grievous injuries and on 18.01.2021, he died. Based on the complaint, the respondent police registered a case.

3. The learned counsel appearing for the petitioner submitted that the petitioner is in judicial custody from 14.01.2021 and the co-accused A3 and A4 were released on bail by the District and Sessions Court, Kancheepuram and he is ready to abide any condition that may be imposed by this court. The learned counsel prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the

petitioner and other accused persons had conspired to commit murder of the defacto complainant due to previous enmity and attacked him and caused grievous injuries and thereafter he admitted in the hospital for treatment and on 18.01.2021, he died. There are four previous cases pending against the petitioner and hence, he opposed to grant anticipatory bail to the petitioner.

5.Considering the facts and circumstances of the case, the petitioner having been under incarceration for more than 90 days in prison and the co-accused have already released on bail, this Court is inclined to grant bail to the petitioner with following conditions:

6.Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Judicial Magistrate-II, Kancheepuram and on further condition that:

(a)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioner is directed to appear before the respondent police daily morning at 10.30 am and evening at 4.30 pm until further orders;

(c)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioner shall not abscond either during investigation or trial;

(e)on breach of any of the aforesaid conditions, the learned 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]***; and;

(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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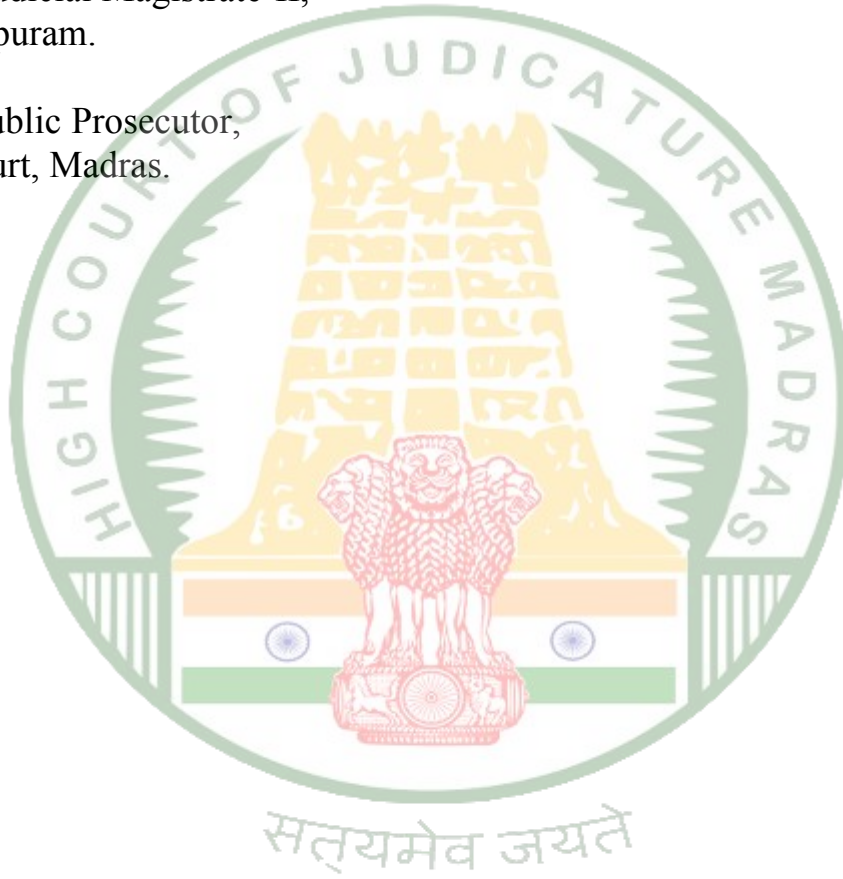
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To

1. Inspector of Police,
Magaral Police Station,
Kancheepuram District.

2. The Judicial Magistrate-II,
Kancheepuram.

3. The Public Prosecutor,
High Court, Madras.



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M.DHANDAPANI,J.

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