

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :13.05.2021

Coram

The Honourable Mr.Justice G.CHANDRASEKHARAN

Cr1.O.P.No.8853 of 2021

1. Agarnivash ...Petitioners

2. Agil @ Agilan

Versus

The State rep. By ...Respondent
The Inspector of Police,
Krishnagiri town Police Station,
Krishnagiri.
(Crime No.65 of 2021)

This Criminal Original Petition is filed under Section 439 of Cr.P.C praying to enlarge the petitioners on bail in Crime No.65 of 2021 on the file of the respondent Police.

For Petitioners : Mr.R. Sankarasubbu,
for Mrs.S.Sengkodi
For Respondent : Mr.S.Karthikeyan,
Addl. Public Prosecutor

ORDER

The petitioners were arrested and remanded to judicial custody on 09.02.2021 for the alleged offences punishable under Sections 324, 302 of IPC, in Crime No.65 of 2021 on the file of the respondent police and hence, seek bail.

2. It is seen from the submission that the petitioners are alleged to have committed murder of one deceased Jeyamani on 09.02.2021 in a quarrel.

3. The learned counsel for the petitioners submitted that the petitioners are innocent and they are in custody from 09.02.2021. Therefore, he seeks bail.

4. The learned Additional Public Prosecutor strongly opposed this petition on the ground that the petitioners have previous cases against them.

5. When the matter was taken up for hearing on 06.05.2021, it was specifically adjourned stating that " the petitioners are in custody since 09.02.2021. If the petitioners are in prison for 90 days, they will get default bail", and the case was ordered to be posted on 12.05.2021. Yesterday, when the matter was taken up, this court requested the learned counsel for the petitioner and the learned Additional Public Prosecutor to apprise this Court whether in a petition filed under Section 439 Cr.P.C., statutory bail can be ordered under Section 167(2) Cr.P.C.

6. Today, the learned Additional Public Prosecutor submitted that in an identical situation, this Court ordered statutory bail under Section 167(2) Cr.P.C. in a petition filed under Section 439 Cr.P.C. in CrI.O.P.No.71 of 2021 dated 15.02.2021.

7. Taking note of this fact and also the fact that even after the completion of 90 days from the date of arrest, the respondent police has not filed final report in this, this Court finds that the petitioners are entitled for statutory bail under Section 167(2) Cr.P.C though this petition is filed under Section 439 Cr.P.C.

8. Accordingly, the petitioners are ordered to be released on bail, on executing a personal bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), each with two sureties for a like sum to the satisfaction of the learned Judicial Magistrate - I, Krishnagiri and on further conditions that:

(a) the petitioners shall report before the respondent police daily at 10.30 a.m and 5.30 p.m until further orders.

(b) the petitioners shall not abscond either during investigation or trial.

(c) the petitioners shall not tamper with evidence or witness either during investigation or trial.

(d) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners are released on bail by the learned Magistrate himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

(e) If the petitioners/accused thereafter absconds a fresh FIR can be registered under Section 229A IPC.

-sd/-

13/05/2021

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

TRUE COPY

TO

1 THE JUDICIAL MAGISTRATE,
NO.I, KRISHNAGIRI.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KRISHNAGIRI TOWN POLICE STATION,
KRISHNAGIRI.

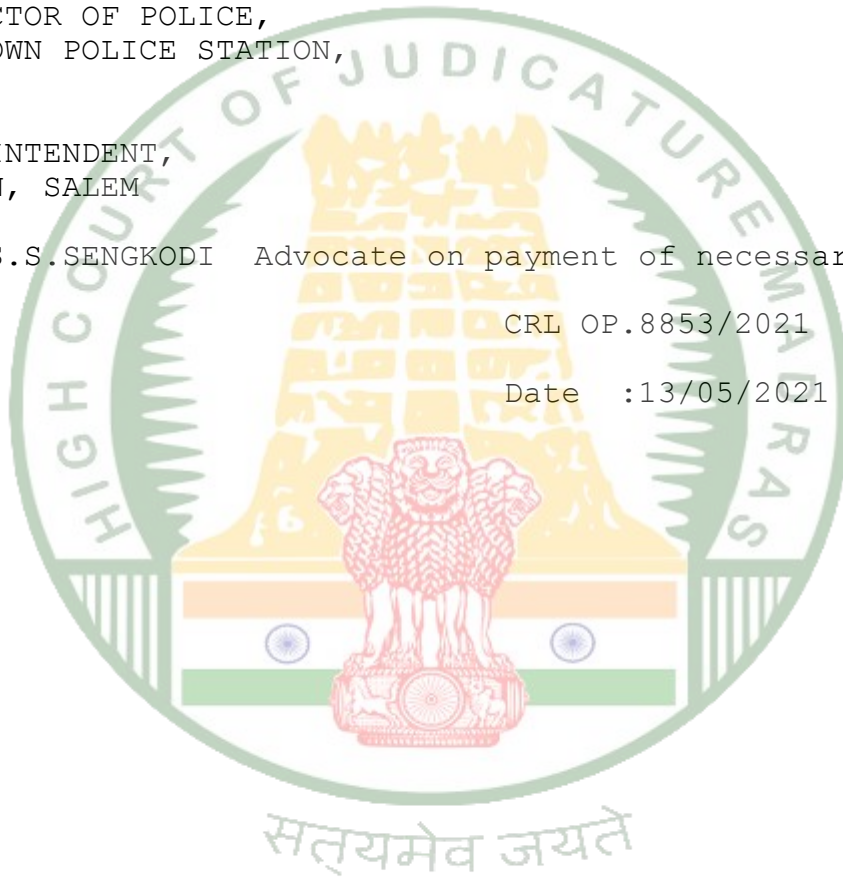
5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

CC to M/S.S.SENGKODI Advocate on payment of necessary charges

CRL OP.8853/2021

Date :13/05/2021

TA-17/05/2021



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