

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.9705 of 2021

Shantha Kumar

... Petitioner

Versus

The Inspector of Police,
Omerabad Police Station,
Vellore District.
(Crime No.116 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail in the Crime No.116 of 2021 on the file of Omerabad Police Station, Vellore District.

For Petitioner : Mr.N.Kalainesah

For Respondent : Mr.E.Raj Thilak
Counsel for Government of Tamil Nadu
(Crl side)

ORDER

The petitioner, who was arrested on 21.03.2021 and remanded to judicial custody for the offences punishable under Sections 294(b), 323, 324, 506 (i) and 302 of IPC., in Crime No.116 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner and the father of the deceased are neighbours. According to the defacto complainant, who is the father of the deceased, the petitioner used to utter obscene words while pretending to be talking in his mobile phone and this was objected to by the defacto complainant. Even on the date of occurrence, the defacto complainant objected to the petitioner talking in his mobile phone by using obscene words. When this was questioned, the petitioner and others physically assaulted the defacto complainant. At that time the deceased intervened. The petitioner and others hit the deceased with an iron rod and caused him bleeding injuries and later died due to such injuries, hence, the complaint.

3. The learned counsel for the petitioner submitted that the petitioner is no way connected with the alleged offence and he has been falsely implicated in this case. The petitioner has been in jail from 21.03.2021. He would further submit that the co-accused viz., A2 & A3 have already been granted bail by this Court in Crl.O.P.No.9381 of 2021 dated 19.05.2021. Therefore, he prays to grant bail to the petitioner.

4. The learned counsel appearing for Government of Tamil Nadu (Crl.Side) would submit that investigation is yet to be completed and therefore, he vehemently opposed for grant of bail to the petitioner.

5. Considering the rival submission and perusal of the materials it is evident that the petitioner is the first accused in this case. This petitioner is said to have hit the deceased with iron rod on his head. The petitioner and the deceased are neighbours. The father of the deceased had objected the petitioner talking over phone, by using obscene words, which was objected earlier. Again, the petitioner indulged in similar acts and when it was questioned by the defacto complainant, there was a commotion during which the petitioner said to have assaulted the deceased along with others. Now, in this case, A2 and A3 have been granted bail with condition.

6. Considering the fact that the co-accused had already been released, the period of incarceration suffered by the petitioner and the present COVID-19 pandemic situations, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(a) the petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) before the Superintendent of the Central Prison, Vellore, in which the petitioner has been confined on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned learned Judicial Magistrate, Ambur, within a period of 15 days from the date of lifting of lockdown and commencement of regular functioning of Court below, failing which the bail granted by this Court shall stand dismissed automatically;

(c) 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;

(d) On release the petitioner shall report before the Vaniyambadi Police Station daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

(e) the petitioner shall not commit any offences of similar nature;

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

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

(h) 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].

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

(ii) the petitioner shall not visit or go near the home of the victim, till the completion of Trial.

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

-sd/-

07/06/2021

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 PRINCIPAL SESSIONS JUDGE,
AMBUR.

2 THE JUDICIAL MAGISTRATE,
AMBUR.

3 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
OOMERABAD POLICE STATION.

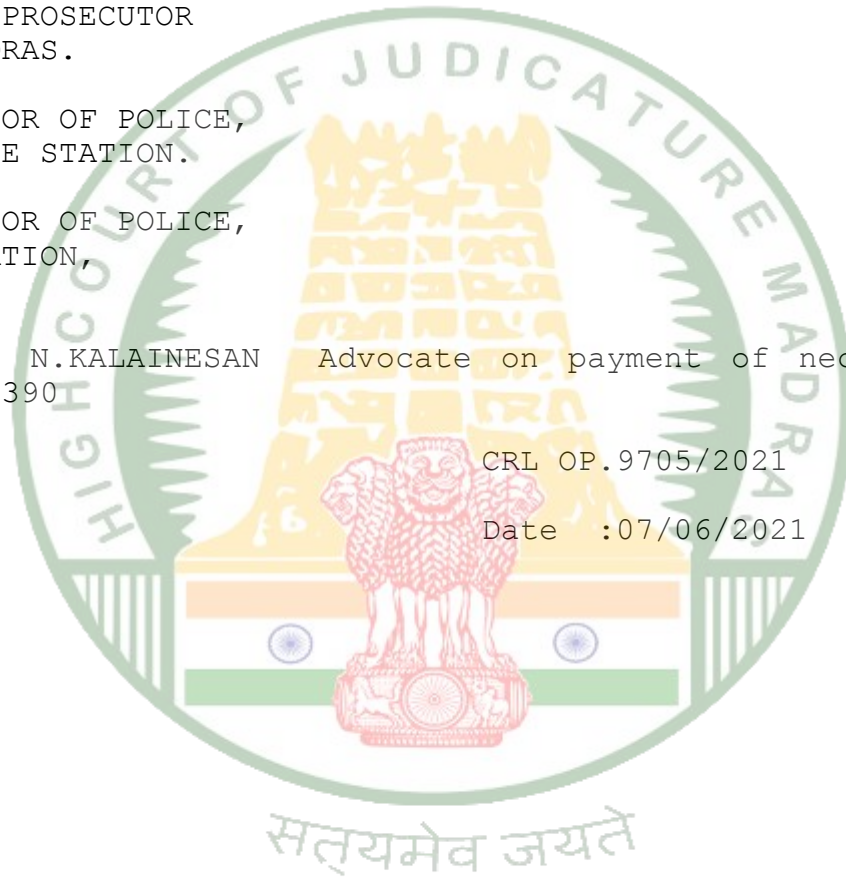
6 THE INSPECTOR OF POLICE,
TOWN POLICE STATION,
VANIYAMBADI.

+1CC to N.KALAINESAN Advocate on payment of necessary
charges SR NO.6390

CRL OP.9705/2021

Date :07/06/2021

MK:08/06/2021



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