

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.10014 of 2021

Surya

... Petitioner/Accused-2

Versus

State rep. by its

The Inspector of Police,

Periyanaickenpalayam Police Station,

Coimbatore District.

(Crime No.228 of 2021)

...Respondent /Respondent

PRAYER: Criminal Original Petition filed under Section 439 of the Code of Criminal Procedure, to enlarge the petitioner on bail in Crime No.228 of 2021 on the file of the Respondent Police.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mr.E.Raj Thilak,
Counsel for Government(Crl.Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 03.05.2021 for the offence punishable under Sections 294(b) & 307 of IPC in Crime No. 228 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant and the petitioner are already known persons. On 02.05.2021 at about 07.00 pm., the petitioner herein made a call to the defacto complainant's wife mobile number and asked the defacto complainant to come near Mathampalayam Kannarpalayam Extension. Thereafter, they went to Unit 4, Solchar Company and at that time some persons were already there and they started attacking the defacto complainant with 'patta kathi' by abusing him with filthy language. Due to this attack, the defacto complainant succumbed with injuries on his head, hand and knee. Hence he lodged a complaint before the

respondent police.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and and law abiding citizen. Since both the defacto complainant and the petitioner are already known each other, they went bike race on the date of occurrence and fall down. Out of which the defacto complainant got injuries and a false complaint has been foisted as against the petitioner herein. Therefore, he prays to allow the petitioner on bail.

4.The learned counsel appearing for the respondent would submit that totally 7 accused persons are there in this case. A1 to A3 were arrested. A4 to A7 were still absconding. Further, the accused persons had an intention to murder the defacto complainant and also used 'patta kathi' to inflict injuries on him. Since the issue involved in this crime number is belongs to two

rowdy gangs, if the petitioner is released on bail, there may be some law and order issue may arise and the petitioner may tamper the evidences. Further, he would submit that investigation in this case is still in progress and stongly objected to release the petitioner on bail.

5. Considering the facts and circumstances of the case, considering the fact that the petitioner is in incarceration from 03.05.2021 and also the injured had been discharged from hospital, 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 concerned prison, 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 concerned Magistrate 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 respondent police 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 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.

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

08.06.2021

Internet: Yes

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To

1.The Inspector of Police,
Periyanaickenpalayam Police Station,
Coimbatore District.

2. The Judicial Magistrate-V
Coimbatore.

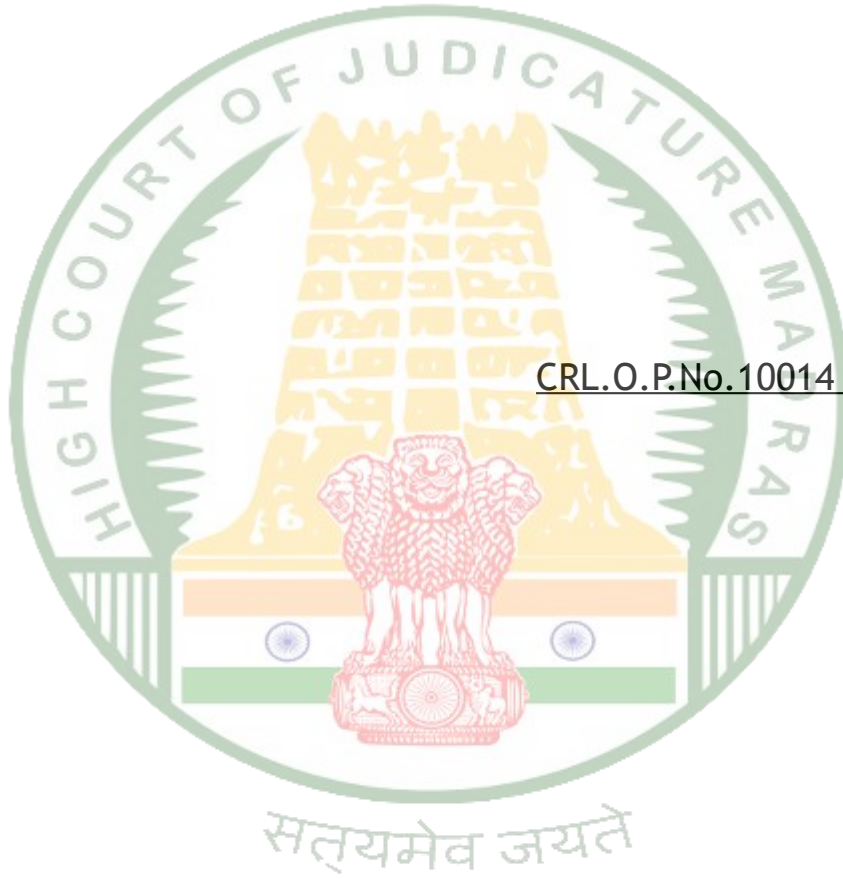
3.The Superintendent, सत्यमेव जयते
Central Prison, Coimbatore.

4. The Additional Public Prosecutor,
High Court of Madras.

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M.NIRMAL KUMAR, J.

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