

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.10044 of 2021

Kannan

... Petitioner/
Accused Rank not known

Vs.

The State represented by, ... Respondent/Complainant
The Inspector of Police,
Muthupettai Police Station,
Thiruvarur District,
Crime No. 214 of 2021

PRAYER: Criminal Original Petition filed under Section 439 Cr.P.C. praying to enlarge the petitioner on bail in Crime No.214 of 2021 on the file of the respondent police.

For Petitioner : Mr.Swamisubramanian

For Respondent : Mr.E.Raj Thilak
Government Advocate (CrI.Side)

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 22.03.2021, for the offence punishable under Sections 147, 148, 342, 323, 302 and 506(ii) of IPC, in Crime No.214 of 2021, seeks bail.

2. The case of the prosecution is that there was previous enmity between the deceased and the first accused with regard to a case of murder. On 22.02.2021, when the deceased and the defacto complainant were going in their motor cycle proceeding towards Uppur village, at that time the petitioner along with other accused persons came in a car and three motor cycles and attacked the deceased. Therefore, the deceased lost his balance and fell down on the road. At that juncture, on instigation of accused Nos.1 to 5, the other accused persons came with Aruval and cut the deceased with Aruval and severed the head of the deceased. They had also threatened the defacto complainant with dire consequences.

3. The learned counsel appearing for the petitioner would submit that so far as 23 accused were arrested and remanded to judicial custody in this case. As far as the petitioner is

concerned, he is arrayed as A7. Due to the previous enmity between the first accused and the deceased, A1 to A5 attacked the deceased indiscriminately by Aruval, due to which, the deceased sustained grievous injuries and died. He would submit that according to the case of the prosecution, the petitioner only arranged other assailants to take away the life of the deceased as instructed by the first accused. Therefore, the petitioner has no previous enmity and no specific overt act in the said occurrence. He was arrested and remanded to the judicial custody on 22.03.2021. Hence, he seeks bail for the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that insofar as the petitioner is concerned, he is arrayed as A7 and he has arranged the other assailants to take away the life of the deceased and has provided cell phones to them. He would further submit that the petitioner has no previous case pending against him. Hence, he vehemently opposed for grant of bail to the petitioner.

5. It is seen that there are totally 23 accused persons and the petitioner is arrayed as A7. There was previous enmity between the first accused and the deceased family, since the deceased had murdered the brother of the first accused. Since, the first accused decided to take away the life of the deceased, he arranged assailants and on 22.03.2021, they intercepted the motor cycle which was driven by the deceased and attacked him indiscriminately with Aruval and severed the head of the deceased. A1 to A5 were also detained under Goondas Act, 1982. Insofar as the petitioner is concerned, he provided cell phones to the other assailants and he was arrested and remanded to judicial custody on 22.03.2021

6. Taking into consideration the above facts and circumstances of the case, nature of allegations against the petitioner and also taking note of the fact that the petitioner is in judicial custody from 22.03.2021, this Court is inclined to grant bail to the petitioner subject to the following conditions:

[a] the petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) before the Superintendent of the concerned prison;

[b] thereafter, the petitioner shall execute two blood related sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned Judicial Magistrate, Thiruthuraiipoondi within a period of fifteen 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.

[c] the petitioner shall stay at Chennai and report before the Inspector of Police, Egmore Police Station, Chennai daily at 10.30 a.m. and 05.30 p.m. until further orders.

[d] the petitioner shall not abscond either during investigation or trial.

[e] the petitioner shall not tamper with evidence or witness

either during investigation or trial.

[f] 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].

[g] 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/-

09/06/2021

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,
THIRUVARUR

2 THE JUDICIAL MAGISTRATE,
THIRUTHURAIPOONDI, THIRUVARUR DISTRICT.

3 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE
MUTHUPETTAI POLICE STATION,
THIRUVARUR DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

7 THE INSPECTOR OF POLICE,
EGMORE POLICE STATION,
CHENNAI.

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

CRL OP.10044/2021

Date :09/06/2021