

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.18133 of 2020

Ezhumalai @ Anand

... Petitioner

Vs.

State rep. by

The Station House Officer,
Muthialpet Police Station,
Pondicherry.

(Crime No.95 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.95 of 2020 on the file of Respondent police.

For Petitioner : Mr.P.Kumaresan

For Respondent : Mr.R.Sankaranarayanan,
A.S.G.I., assisted by
Mr.K.Srinivasan, Spl. P.P.

Mr.V.Balamurugane,
Public Prosecutor for Puducherry

O R D E R

(The case has been heard through video conference)

Totally, there are nine accused and the petitioner is arrayed as A6. The petitioner, who was arrested and remanded to judicial custody on 03.09.2020 for the offence punishable under Sections 109, 120(b), 147, 148, 341, 302 of I.P.C. 109 r/w 149 of I.P.C. in Crime No.95 of 2020 on the file of respondent police, seeks bail.

2. The case of the prosecution is that the deceased by name Ganesan, on suspicion that he was the man behind the murder of one Koninagaraj, who is brother of A1 in this case, all the petitioners hatched a conspiracy and in pursuant to the same, A1 to A4 attacked the deceased and caused his death. Hence, a criminal case has been

registered and the petitioner was arrested and remanded to judicial custody on 03.09.2020. Now, seeking bail, the present petition has been filed.

3. Mr.P.Kumaresan, learned counsel appearing for petitioner would submit that the overtact is attributed only against A1 to A4. It is a retaliation murder, where the deceased Ganesan said to be the master mind in the murder of Koninagaraj, who is brother of A1. So far as this petitioner is concerned, he was implicated as an accused under Section 120(b) of I.P.C., and he along with other accused are part of conspiracy. He would submit that now, the investigation is completed and the final report has been filed. Except vague statements of two witnesses, there is no materials available on record to show that the petitioner was also involved in the occurrence. Even that statement did not squarely show that the petitioner is also part of conspiracy. He would submit that the petitioner is in jail for six months. Hence, he prayed to grant bail to the petitioner.

4. Mr. V.Balamurugane, learned Public Prosecutor for Puducherry appearing for the respondent strongly opposed the bail petition stating that the petitioner is a close friend of A1, he along with other accused only planned to commit murder and he is also part of the conspiracy. In pursuant to the same, A1 to A4 have brutally attacked the deceased and caused death. Now, the matter is committed to Sessions Court and now posted for framing of charges. He would submit that the petitioner is very influential person and if he is released on bail, he will tamper the witnesses and he will also likely to abscond. The learned Public Prosecutor would also submit that the statement of witnesses will clearly implicate the petitioner as he is the part of conspiracy. Hence, he opposed to grant bail to the petitioner.

5. I have heard and considered the rival submissions made by the learned counsel appearing for petitioner as well as learned Addl. Public Prosecutor appearing for respondent.

6. Taking into consideration of the fact that, the motive is attributed to A1 and the main overtact is attributed against A1 to A4. So far as this petitioner is concerned, he was implicated as accused with the aid of Section 120(b) of I.P.C.. He along with other accused are the part of conspiracy and in pursuant to the same, the other persons said to have murdered the deceased. Admittedly, the motive only against A1 to A4, and A4 only attacked the deceased. Now, the petitioner is in jail for more than six months. Therefore, on considering the fact that the investigation is also over and now, the matter is pending for framing of charges, and also considering the fact that there is no specific overtact attributed against the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Puducherry and on further conditions that:

(b) 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;

(c) the petitioner, after his release from prison, shall stay at Mahe and report before the Mahe Police Station daily at 10.30 a.m. until further orders;

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

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

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

(g) on breach of any of the aforesaid conditions, the learned Judicial 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];

(h) 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/-

15/03/2021

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 JUDICIAL MAGISTRATE,
NO.II, PUDUCHERRY.

2 THE CHIEF JUDICIAL MAGISTRATE
PUDUCHERRY [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUDUCHERRY.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

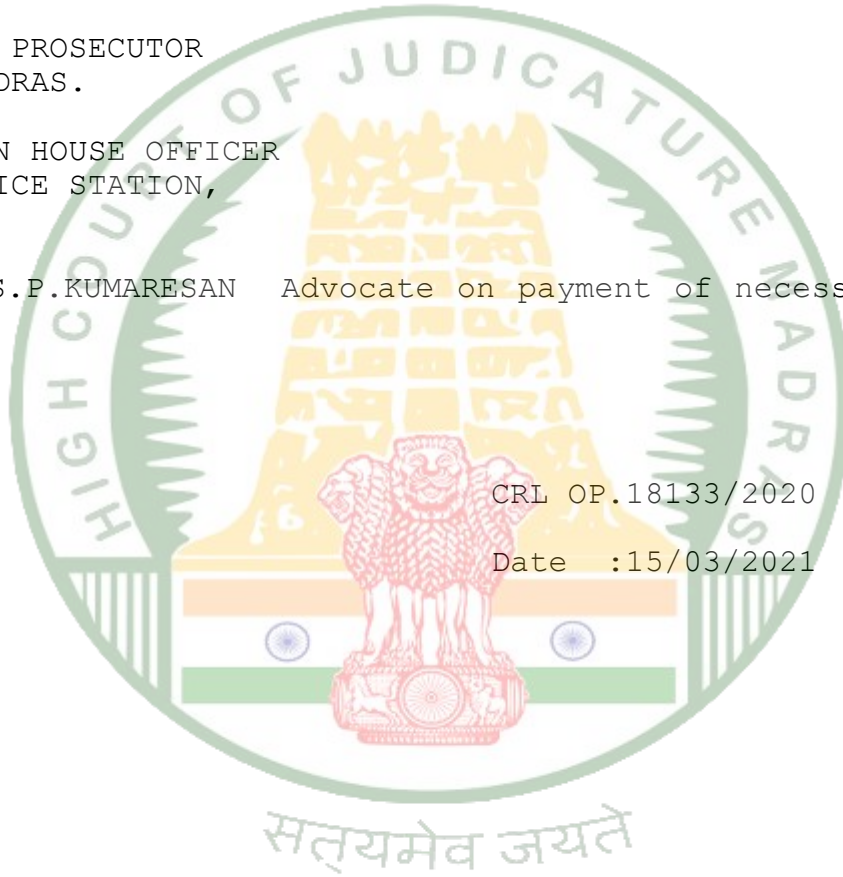
5 THE STATION HOUSE OFFICER
MUTHIALPET POLICE STATION,
PONDICHERRY.

+1 CC to M/S.P.KUMARESAN Advocate on payment of necessary charges
SR.No.3327

CRL OP.18133/2020

Date :15/03/2021

cs 16/03/2021



WEB COPY