



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.01.2021

CORAM :

THE HON'BLE Mr.JUSTICE V.BHARATHIDASAN

Crl.O.P.No.20138 of 2020

Durairaj

... Petitioner

Vs.

State Rep. by  
The Inspector of Police,  
Samalpatti Police Station,  
Samalpatti, Krishnagiri District.  
(Crime No.881 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.881 of 2020 pending on the file of the Respondent.

For Petitioner : Mr.P.M.Duraiswamy

For Respondent : Mrs.M.Prabhavathi,  
Additional Public Prosecutor  
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#### O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 21.11.2020 for the alleged offence punishable under Section 302 of IPC in Crime No.881 of 2020, seeks bail.

2. The case of the prosecution as per the de facto complainant is that the petitioner is the sole accused, who is alleged to have committed murder on the deceased and that the occurrence had taken place on 13.11.2020. Hence, the Complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would submit that it is the case of circumstantial evidence and that the deceased is the son of the de facto complainant. He would further submit that as per the FIR, on the date of occurrence, while the deceased was sleeping in the house, he was attacked by some unknown person on his neck and caused death and subsequently, based on the extra judicial confession given before the Village Administrative Officer, the petitioner was arrested on 21.11.2020, he is in jail for more than 60 days and hence, he prays to

Grant bail to the petitioner.



4. The learned Additional Public Prosecutor appearing for the respondent would vehemently oppose stating that the petitioner committed murder on the deceased by cutting his neck. She would submit that apart from the extra judicial confession, last seen theory is also there and that this is the second attempt on the deceased and that the petitioner, who is a paramour of a lady, has strong motive to commit the murder since the lady has developed intimacy with the petitioner.

5. Heard the learned counsel for the petitioner as also the learned Additional Public Prosecutor appearing for the respondent. Perused the entire materials available on record.

6. Taking into consideration the facts and circumstances of the case and the fact that it is the case of circumstantial evidence and the petitioner has been implicated based on the extra judicial confession and also considering the period of incarceration suffered by 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, Uthangarai, 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, on his release from prison, shall stay at Salem and report before the Salem North Town Police Station everyday 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/-  
11/01/2021

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,  
UTHANGARAI.

2 THE CHIEF JUDICIAL MAGISTRATE  
KRISHNAGIRI [FOR INFORMATION]

3 THE OFFICER INCHARGE  
SUB JAIL, HOSUR.

4 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,  
SAMALPATTI POLICE STATION,  
SAMALPATTI, KRISHNAGIRI DISTRICT.

6 THE OFFICER INCHARGE  
SALEM NORTH TOWN POLICE STATION,  
SALEM.

CC to M/S P.M.DURAI SWAMY Advocate on payment of necessary charges

CRL OP.20138/2020

Date :11/01/2021

cs 11/01/2021