



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2022

CORAM:

THE HON'BLE MR.JUSTICE DR.G.JAYACHANDRAN

Cr1.O.P.No.6585 of 2022

Kaliyamoorthy

... Petitioner

Vs.

State Represented by
The Inspector of Police (Station House Officer),
Thirunallar Police Station,
Thirunallar,
Karaikal.

... Respondent

PRAYER: The Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the Petitioner/Accused No.2 on Bail in Crime No.160 of 2021 on the file of the respondent police on such terms and conditions that may be deemed necessary and proper in the circumstances of the case by this Court.

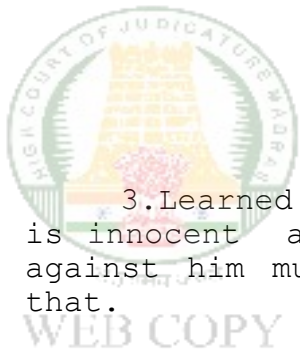
For Petitioner : Mr.R.Natarajan

For Respondent : Mr.V.Balamurugane
Public Prosecutor (Pondicherry)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 23.10.2021 for the offences punishable under Sections 148, 149, 302, 307 IPC @ Sections 148, 302, 307, 324, 120B, 109 IPC r/w Sec.149 IPC, in Crime No.160 of 2021, on the file of the respondent police, seeks bail.

2.The petitioner herein arrayed as A2 in the case of murder of one Devamani, due to political rivalry and few other pending disputes between the petitioner's group and the deceased. This petitioner through A3 has organised and hired killers from Tamil Nadu to murder the said Devamani. This is the version of the prosecution.



3.Learned counsel for the petitioner states that the petitioner is innocent and the deceased had several enemies and criminal cases against him must done to death and this petitioner has no role in that.

4.However, the learned Public Prosecutor (Pondicherry) has pointed out that there are witnesses who have made a statement against the role of the petitioner and based on the statement, the prosecution has completed the investigation and has filed a final report, which has been taken on file in P.R.C.No.1 of 2022 on committal.

5.Learned Public Prosecutor appearing for the respondent police has strongly opposed in granting bail to this petitioner on three different grounds. Primarily, the Public Prosecutor states that if the petitioner is released on bail there is possibility of law and order problem in Karaikal area, since the murder took place due to fight between two communities. Secondly, the petitioner's life itself is under threat since the rival group may go after his life. Thirdly, the abscondance of the petitioner is also likely to happen.

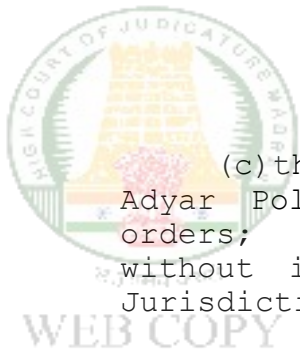
6.Learned counsel for the petitioner has stated that the petitioner is a cancer patient and taking treatment in Adyar Cancer Institute and if bail is granted to the petitioner, he will not enter Karaikal unless he is called for his appearance before the Court and he will stay at Chennai and pursue his treatment. Regarding abscondance, the learned counsel submits that most of the accused in this case had already been granted bail and there is no incident of abscondance. Regarding the possibility of communal clash in Karaikal, the petitioner would submit that it is only invented reason to oppose bail and even if there is any communal clash, it is the duty of the respondent police to maintain law and order, for this purpose, the petitioner cannot be detained.

7.Considering the rival submissions, this Court is of the view that since the investigation is completed and a final report is also filed, bail is granted to the petitioner.

8.Accordingly, the petitioner is ordered to be released on bail subject to the following conditions;

(a) the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties, for a like sum to the satisfaction of the learned Judicial Magistrate - II, Karaikal.

(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 is directed to appear before the Adyar Police Station daily at 10.30 a.m. until further orders; and the petitioner shall not enter Karaikal region without intimation to the Adyar Police Station and the Jurisdictional Police Station at Karaikal.

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

(e) 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];

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

-sd/-
29/03/2022

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, KARAİKAL.

2 THE CHIEF JUDICIAL MAGISTRATE
PUDUCHERRY [FOR INFORMATION]

3 THE INSPECTOR OF POLICE
(STATION HOUSE OFFICER),
THIRUNALLAR POLICE STATION,
THIRUNALLAR, KARAİKAL.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUDUCHERRY.



5 THE PUBLIC PROSECUTOR
PUDUCHERRY.

6 THE OFFICER INCHARGE
ADYAR POLICE STATION,
ADYAR, CHENNAI.

+2 CC to M/S.R.NATARAJAN Advocate on payment of necessary charges
SR.NO.4689

CRL OP.6585/2022

Date :29/03/2022

JPA 30/03/2022