

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:25.11.2019

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.O.P.No.27322 of 2019

S.Devi

... Petitioner/Intervenor/Defacto Complainant

Vs.

1. The State rep. by
The Inspector of Police,
K-10, Koyambedu Traffic Investigation Wing,
Koyambedu,
Chennai. ...1st Respondent/Respondent/Complainant

2. K.C.Kannan ... 2nd Respondent/Petitioner/Accused

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to cancel the bail granted by the learned Principal Sessions Judge, Chennai, in Crl.M.P.No.19690 of 2019 dated 24.09.2019.

For Petitioner : Mr.M.Jagajeevan

For Respondent-1 : Mr.T.Shanmugarajeswaran,
Government Advocate.

For Respondent-2 : Mr.G.K.Thamizh Arasan

ORDER

This application has been filed seeking to cancel the order granting bail to the second respondent in Cr.No.122 of 2019 on the file of the first respondent police by the learned Principal Sessions Judge, Chennai, in Crl.M.P.No.19690 of 2019 dated 24.09.2019. It is stated that the accused was charged for offences under Sections 338, 304 (ii) of IPC and also under Sections 185 and 184 of M.V Act. The accused was aged about 24 years and he had driven the vehicle in a rash and negligent manner in a high speed and hit the two wheeler, which was driven by the deceased whose his wife was riding pillion. The wife suffered multiple fractures. The learned Sessions Judge granted bail to the accused in the aforesaid case, against which, the present petition has been filed seeking cancellation of bail.

2. I am not going into the details of the nature of the accident. At the time of the accident, the accused/second respondent is said to have been under the influence of the alcohol and had committed the said rash and drunken driving accident. The learned Sessions Judge, expressed those aspects in the order granting bail.

3. The learned Government Advocate (Crl.side) would submit that invoking the jurisdiction Section 482 of Cr.P.C, this Court may interfere the bail granted to the accused and delete portions in the order which expresses a final opinion on the offence committed.

4. I hold that by invoking the paras under Section 482 of Cr.p.C, in the order granting bail paragraph Nos.(6) and (7) are deleted. The order would therefore reads as follows:

"The petitioner, who was arrested on 15.09.2019 for the offences under Section 338, 304(ii) of IPC and under Section 185 and 184 of M.V.Act, in Crime No.122 of 2019 on the file of the respondent police, seeks bail.

2. Heard both sides.

3. The learned counsel for the petitioner submits that the petitioner is a Doctor. he had not consumed alcohol as alleged by the prosecution. He was not under the influence of alcohol at the time of accident. He stopped the vehicle at the place of occurrence itself. In fact, the accident was happened due to the negligent act of the deceased and further, he is custody for the past 10 days and prays for bail.

4. On the other hand, the learned counsel appearing for the intervenor submits that in the accident, the mother of the intervenor also sustained injury. Since the petitioner happens to be a Doctor, they forcibly discharged her mother from the hospital, though she needs treatment. Further, it is a case of drunken driving and seriously objects granting bail.

5. The learned CPP submits the case diary for perusal.

6. Under such circumstances, this Court is inclined to grant bail on condition to pay Rs.2 lakhs as interim compensation.

7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a likesum to the satisfaction of the learned VI Metropolitan Magistrate, Chennai and on further conditions that:

(a) the petitioner shall pay a sum of Rs.2 lakhs (Rupees two lakhs only) as interim compensation to the mother of the defacto complainant, namely, Revathy (wife of the deceased) by means of Demand Draft;

(b) the sureties shall affix their photographs and Left Thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioner shall appear before the respondent police daily at 10.30 a.m., until further orders;

(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 Magistrate/ Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]; and;

[f] if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

5. This is the order, which will remain on record. The earlier order stands cancelled and substituted by the present order.

6. It is also brought to the notice of this Court that a sum of Rs.2,00,000/- stipulated in the order has also been paid by way of Demand Draft and that there is no specific violation of any of the conditions of the bail order.

7. Accordingly, this petition is closed. It is also informed that the Demand Draft for the interim compensation of amount of Rs.2,00,000/- has been deposited before the learned

6th Metropolitan Magistrate Court, Egmore, Chennai. On proper identification, acknowledgment and undertaking, the same paid to the victim/Revathi. This amount is given without any prejudice to the said victim/family of the victim seeking further compensation in appropriate proceedings in any Court of law.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Principal Sessions Judge,
Chennai.
 - 2.The Inspector of Police,
K-10, Koyambedu Traffic Investigation Wing,
Koyambedu, Chennai.
 - 3.The Public Prosecutor,
High Court, Madras.
- +1cc to M/s.Mr.G.K.Thamizh Arasan, Advocate Sr.100930

Cr1.O.P.No.27322 of 2019

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srg 05/12/2019

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