

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.05.2020

CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

Crl. O.P. No.7669 of 2020

Shalini

... Petitioner

-Vs-

The State Rep. by
The Sub-Inspector of Police,
Viruthambut Police Station,
Vellore District.
(Crime No.375 of 2018)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in PRC.No.8 of 2020 on the file of Judicial Magistrate-III, Vellore in Crime No.375 of 2018 on the file of the respondent.

For Petitioner : Mr.R.Thirumoorthy

For Respondent : Mr. Karthikeyan Swaminathan,
Additional Public Prosecutor

O R D E R

The Petitioner, who is the accused in Crime No.375 of 2018 for the alleged offences under Sections 435, 109 of IPC r/w Section 4 of TNPPDL Act, was arrested on 23.03.2020 pursuant to the non bailable warrant issued by the learned Judicial Magistrate-III, Vellore in PRC.No.8 of 2020.

2. The case of the prosecution is that there are totally five accused in this case, in which the petitioner is arrayed as A5 and her husband is arrayed as A4. The petitioner and other accused involved in the case of kidnap for ransom. The petitioner and other accused kidnapped the son of the defacto complainant and demanded ransom from him. Since the de facto complainant refused to give the same, the petitioner's husband and other accused went to the house of the de facto complainant and set fire to the car belongs to the de facto complainant.

3. The contention of the Petitioner is that since the husband of the petitioner-A4 was absconding and unable to arrest him, the petitioner has been falsely implicated in this case. The petitioner is a B.Sc (Zoology) student at Annamalai University and on the date of alleged occurrence, she was staying at Chidambaram attending the

examinations. She produced the college identity card and other educational credentials. The petitioner's son is studying in 5th standard and she has to take care of her minor son and hence, he seeks bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the petitioner's minor son is staying with his grand parents. The petitioner and her husband are absconding from the date of occurrence. The petitioner's husband along with other accused used to kidnap persons and demand ransom. If the ransom is not paid, in vengeance, they used to set fire on the properties of the persons, who are not yielding to the demand. The petitioner and her husband are on the run, they are very notorious involved in similar nature of cases in the same police station, which is pending committal in PRC.No.9 of 2020. Hence, he objected for the grant of bail to the petitioner.

5. Considering the rival submissions and the fact that the Petitioner is a lady, she is studying B.Sc (Zoology) in Annamalai University, further she was not arrested during investigation and there is nothing to show that she was aware of the case and she is absconding, the learned Magistrate had straight away issued Non bailable warrant against the petitioner and her husband and as regards other accused, summons have been issued and there is nothing to show that the summons were refused or evaded, in view of the same, the learned Magistrate ought not to have issued non bailable warrant against the petitioner at the first instance, taking note of the above facts, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) the petitioner shall deposit a sum of Rs.5,000/- (Rupees five thousand only) to the Chief Minister Public Relief Fund, Tamil Nadu, and on such deposit the petitioner is ordered to be released on bail on executing her own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) before the Superintendent of the concerned prison, in which the petitioner has been confined on her release;

(b) the Petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the concerned Magistrate on or before 01.07.2020, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the petitioner shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) to the credit of Crime No.375 of 2018 before the concerned Magistrate without prejudice to her defence.

(d) 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;

(e) the Petitioner shall not commit any offences of similar nature;

(f) the Petitioner shall not abscond either during investigation or trial,

(g) the Petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) the Petitioner shall report before the respondent police as and when required for interrogation.

(i) 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];

(i) if the accused thereafter absconds, a fresh F.I.R. can be registered under Section 229A I.P.C.

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-

20/05/2020

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.III,VELLORE

2 THE SUPERINTENDENT,
CENTRAL PRISON, FOR WOMEN VELLORE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB-INSPECTOR OF POLICE,
VIRUTHAMBUT POLICE STATION,
VELLORE DISTRICT.

5 THE SECRETARY,
CHIEF MINISTER PUBLIC RELIEF FUND,
TAMILNADU

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

CRL OP.7669/2020

Date :20/05/2020

RD 04/08/2020

<https://hcservices.ecourts.gov.in/hcservices/>