

IN THE HIGH COURT OF JUDICATURE AT MADRAS
15.05.2020
CORAM
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
Crl.OP.No.7589 of 2020

Kanagaraaj

...Petitioner

Vs

State rep. by

Station House Officer

Karuveppilankurichi Police Station

Cuddalore District.

(Crime No.97 of 2020)

...Respondent

Prayer:Criminal Original Petition filed under Section 439 Cr.P.C., to enlarge the petitioner on bail pending investigation in Crime No.97 of 2020 on the file of the respondent police.

For petitioner : Mr.K.Balu

For respondent : Mr.M. Mohammed Riyaz

Additional Public Prosecutor (Crl. Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 15.03.2020 for the offence punishable under Sections 294 (b), 323 and 302 IPC in Crime No.97 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that, three years back, there was a dispute between the defacto complainant's family and the petitioner herein. Thereafter, they have no negotiation between them. While being so, again on 14.03.2020, there was a dispute between both the families, in which the petitioner and his wife attacked the father of the defacto complainant and as such he fell unconscious. Immediately, he was taken to the hospital and after examination, he was declared as died. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that since there was a dispute between both the families in previous, the petitioner herein has been falsely implicated in this case. Further there is no motive to murder the deceased by the petitioner. He would also submit that the petitioner is in incarceration from 15.03.2020 and hence, he seeks bail for the petitioner.

4. The learned Additional Public Prosecutor (Crl. Side) would submit that there was a wordy quarrel between the petitioner's family and the defacto complainant's family, in respect of letting out drainage water on 14.03.2020. In which, the petitioner along with his wife attacked the deceased. Further the petitioner herein has pushed down the deceased and kicked him on his chest. Thereby, he became unconscious and died. Hence, he vehemently opposed for grant of bail to the petitioner.

5. It is seen that the petitioner and the defacto complainant's family are neighbours. There was a dispute between them, three years prior to the incident in respect of drainage water. Again on 14.03.2020, there was a dispute for the very same issue, in letting out the drainage water. In which the petitioner pushed down the deceased and kicked on his chest. Thereby he fell unconscious and declared dead. Further, taking into consideration the nature of allegations against the petitioner in the FIR and taking note of the fact that the petitioner is in judicial custody from 15.03.2020, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(a) the petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) before the Superintendent of the concerned prison;

(b) thereafter, 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 08.06.2020, failing which the bail granted by this Court shall stand dismissed automatically.

(c) 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.

(d) the petitioner shall report before the respondent police daily at 10.30 a.m. from 01.06.2020, until further orders.

(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 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.

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

-sd/-
15/05/2020

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 SESSIONS JUDGE,
CUDDALORE DIVISION, CUDDALORE.

2 THE JUDICIAL MAGISTRATE NO.II,
VIRUDHACHALAM.

3 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE STATION HOUSE OFFICER
KAERUVEPPILANKURUCHI POLICE STATION,
CUDDALORE DISTRICT

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

CRL OP.7589/2020

Date :15/05/2020

MK:30/06/2020

WEB COPY