

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.05.2020

CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

CrI.O.P.No.7634 of 2020

Madesh

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Magudanchavadi Police Station,
Salem District.
(Crime No. 386 of 2019)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail pending investigation in Crime No.386 of 2019 on the file of the respondent police.

For Petitioner : Mr. W.Camyles Gandhi

For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor

O R D E R

The petitioner, who was arrested and remanded to judicial custody on 09.03.2020 for the offence punishable under Sections 174 of Cr.P.C. @ 147, 148, 302 of IPC Act in Crime No.386 of 2019 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the deceased Mukesh was the counsins of the defacto complainant. On 10.09.2019 at about 9:30 a.m. in a drunken mood the said Mukesh fell down in a ditch near Ilampillai Government Girls Higher Secondary School and he was admitted in the Salem Government Hospital where he died on 14.09.2019, hence a complaint was given by the defacto complainant. During the course of investigation the police found that quarrel arose between Mukesh and the accused and in the said occurrence the petitioner and other accused attacked the said Mukesh and threw him in a ditch and due to the attack by the accused he died, hence this case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is not involved in the above alleged offence and he is no way connected with the offence as alleged by the prosecution and he did not commit any offence. Further he submits that A1 & A3 were already granted bail in CrI.O.P.No.33297 of 2019 dated 11.12.2019 and the petitioner is in judicial custody for the past two months and hence, he seeks bail for the petitioner.

4. The learned Additional Public Prosecutor (Crl. Side) would submit that the petitioner was absconding for long time whereas the occurrence took place on 10.09.2019 but the petitioner could be arrested only respondent police on 09.03.2020. Hence, he vehemently opposed for grant of bail to the petitioner.

5. Taking into consideration the nature of allegations against the petitioner in the FIR and also taking note of the fact that the other accused A1 & A3 were already granted bail by this Court in Crl.O.P.No.33297 of 2019 dated 11.12.2019 and the petitioner is in judicial custody from 09.03.2020, 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) 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.

(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 as and when required for interrogation.

(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/-

18/05/2020

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 PRINCIPAL SESSIONS JUDGE,
SALEM.

2 THE JUDICIAL MAGISTRATE,
NO.II, SANKARI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
MAGUNDANCHAVADI POLICE STATION,
SALEM DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

CC to M/S W.CAMYLES GANDHI Advocate on payment of necessary charges

CRL OP.7634/2020

Date :18/05/2020

RVR 24/08/2020

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