

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.05.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.7787 of 2020

Jayakumar

... Petitioner

Vs.

State Represented by
The Inspector of Police,
Sooramangalam Police Station,
Salem District.
In Crime No.271 of 2020

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., praying, to release the petitioner/accused on Bail.

For Petitioner : Mr.B.Mohan

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 24.03.2020 for the offences punishable under Sections 147, 294(b), 323, 353 & 307 of IPC, in Crime No.271 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that at about 7.00 p.m., the defacto complainant, Sub Inspector of Police of Sooramangalam Police Station received information that Iyyamperumampatty the villagers have made arrangements for temple festival, so he and his party went there to prevent the same since 144 prohibitory orders were in force because of COVID -19 and after completing the said work, they were returning, at that time they heard the news that some persons are draining out septic tank wastage at Solampallam Bus Stop at about 4.45 p.m., they reached there, at that time the accused seen discharging the septic tank wastage, this was questioned by the de-facto complainant, at that time the petitioner and the other accused abused the de-facto complainant in filthy language and prevented him from doing his official duty and strangulated his neck with an intent to kill him. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case and the injured person was discharged from the hospital. He would further submit that A-2 to A-6, A-8 and A-9

was let out on interim bail by the Principal Sessions Judge, Salem dated 05.05.2020 and A-7 was enlarged on interim bail by this Court dated 22.04.2020. On instructions, he would further submit that the petitioner is ready to deposit an amount of Rs.5,000/- to the Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai - 600 020. Therefore, he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner is a history sheet holder and he is involved in six other cases and the investigation is not yet completed. He would further submit that petitioner and the other accused abused the de-facto complainant in filthy language and prevented him from doing his official duty and strangled his neck with an intent to kill him. Hence he vehemently opposed to grant bail to the petitioner.

5. Taking into consideration the facts of the case and the submissions made by the learned counsel and also taking note of the fact that the period of incarceration by the petitioner and also the he has come forward to deposit an amount of Rs.5,000/- (Rupees five thousand only) to the Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai - 600 020, 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 Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai - 600 020 Andhra Bank, Madhya Kailash Branch (SB A/C.No.149710011005477) and on such deposit, the petitioner is ordered to be released on bail on executing his 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 his 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 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 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) 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 FIR can be registered under Section 229A IPC.

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

-sd/-

22/05/2020

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 DISTRICT JUDGE,
SALEM.

2 THE JUDICIAL MAGISTRATE NO.II,
SALEM.

3 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
SOORAMANGALAM POLICE STATION, SALEM DISTRICT.

5 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

7 THE CANCER INSTITUTE (WIA),
(REGIONAL CANCER CENTRE), ADYAR, CHENNAI - 600 020
ANDHRA BANK, MADHYA KAILASH BRANCH (SB A/C.NO.149710011005477)

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

CRL OP.7787/2020

Date :22/05/2020