

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.05.2020

CORAM

THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

Crl.O.P.No.7948 of 2020
in Crime No.580 of 2020

MohaddadMaitheen @ MohammadMoideen,
S/o.TajMohammad,
No.4,Ellappa Street No.4.
Rasipuram Town & Taluk,
Namakkal District.

.... Petitioner/Accused

Vs.

State represented by
The Inspector of Police,
Rasipuram Police Station,
Namakkal District.

.... Respondent

Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the
petitioner on bail in Crime No.580 of 2020 pending investigation on the file of
the respondent police.

For Petitioner : Mr.B.Vasudevan
For Respondent : Mr.Karthikeyan
Additional Public
Prosecutor

ORDER

The petitioner was arrested and remanded to judicial custody on 29.04.2020 for the offence punishable under 174 Cr.P.C. subsequently, it was altered into Section 306 IPC in Crime No.580 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner and Asviya loved each other and their parents also agreed for their marriage and they begot two sons aged about 9 years and 10 years respectively. The petitioner has been torturing the deceased for the past one year for obtaining her consent for divorce to remarry another woman and there were frequent quarrel between them and the petitioner used to beat Asviya. There was a wordy quarrel between the petitioner and Asviya on 25.04.2020 at 9.00 p.m. and the petitioner assaulted Asviya. Asviya called the *de facto* complainant through phone and informed about the quarrel and hence, her parents came for consolation. On 26.04.2020, at 10.00 a.m., Asviya committed suicide in her matrimonial house. Hence the complaint.

3.The learned counsel appearing for the petitioner would submit that the deceased was in the habit of using cell phone. On 25.04.2020, when the petitioner asked the deceased for dinner, she did not care and was busy in her phone and therefore, quarrel arose between them. When the petitioner informed the same to his parents-in law, they came and advised the deceased. Thereafter, Asviya committed suicide by hanging leaving behind the two children. Further he would submit that the petitioner is in judicial custody from 29.04.2020 and hence, he seeks bail for the petitioner.

4.The learned Additional Public Prosecutor would submit that the petitioner has tortured the deceased for the past one year for marrying her from poor family and demanding her consent for divorce to remarry another woman. 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 the submissions made by the learned counsel and further taking note of the fact that the petitioner being a muslim needs no such concerned of his wife for another marriage. Further he is in judicial custody from 29.04.2020, 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) each 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 not commit any offences of similar nature;

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

(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 F.I.R. can be registered under Section 229A I.P.C.

WEB COPY

28.05.2020

nsd

Index: Yes/No

Speaking order/Non-speaking order

To

1.The Principal Sessions Judge,
Namakkal.

2.The Judicial Magistrate,
Rasipuram.

3. The Superintendent of Prison,
Central Prison,
Salem.

4. The Inspector of Police,
Rasipuram Police Station,
Namakkal District.

5. The Public Prosecutor,
Madras High Court,
Chennai.



WEB COPY

CRL.O.P.No. 7959 of 2020

M.NIRMAL KUMAR.J.

nsd



Crl.O.P.No.7948 of 2020
in Crime No.580 of 2020

WEB COPY

28.05.2020