

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.05.2020

CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

Crl.O.P.No.7987 of 2020

N.Sethupathy
S/o. Nagarajan,
No.67, 4th Street AnnaiSivagami Nagar,
Ennore, Chennai-600057. ... Petitioner

Vs.

The Inspector of Police,
M5 Ennore Police Station,
Ennore, Chennai-600057.
Crime No. 280/2020 ... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner/Accused on bail relating to Crime No.280 of 2020 on the file of the respondent police.

For Petitioner : Mr.R.Shanmuga Sundaran
Senior Counsel

For Respondent : Mr.Karthikeyan Swaminathan
Additional Public Prosecutor

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ORDER

The petitioner, who was arrested and remanded to judicial custody on 04.04.2020 for the offence punishable under Section 302 IPC in Crime No. 280 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the defacto complainant is none other than the mother of the petitioner and wife of the deceased. In the complaint, it had been stated that on 30.04.2020 at about 9 p.m., the deceased Nagarajan, husband of the defacto complainant came to the house in a drunken mood and abused the defacto complainant for continuing her job despite the deceased instructing her not to go to work. Thereafter, out of rage, the deceased pulled out a knife from the house and started attacking the defacto complainant. The defacto complainant shouted for help. On hearing the cry, the two sons of the defacto complainant ran inside the house to rescue her. At the time, the deceased attacked the defacto complainant and as such, she was inflicted with serious injuries. Thereafter, the deceased became uncontrollable and started hitting her indiscriminately and inflicting stab and cut injuries on the defacto complainant. The petitioner and his brother defended the attack. Further, when the deceased attempted to inflict again and tried to cause stab injury, the petitioner, had tried to ward off and the petitioner and the deceased got entangled, thereby the deceased sustained injuries. The deceased was completely drunk and in such circumstances, while trying to save the defacto complainant, injuries sustained by the deceased on his head, cheeks, hands and thighs and thereafter died on the spot. Hence the complaint.

3. The contention of the petitioner is that the deceased was a drunkard. Admittedly, on the day of the occurrence, he was fully in the drunken stage, took a knife, started inflicting cut injury on his mother and attempted to kill her. On hearing cry of his mother, the petitioner as well as his brother rushed to the house. The petitioner's brother was severely injured. Further the deceased in a fit of rage, started indiscriminately attacking the petitioner, his brother and his mother. Thereafter, the petitioner caught hold of the deceased. The petitioner to save himself and his other family members from the deceased attempted to catch hold of knife and the deceased in the meek sustained injuries and thereafter died. The petitioner voluntarily surrendered before the respondent police. The learned counsel for the petitioner further submits that the petitioner is an educated person working in a reputed company as ITI machinist, he has earned good name in the company and with others because of his behaviour and disciplined life. He further submits that investigation in this case is almost over and the petitioner had exercised the right of self defence. Further he submits that the petitioner is in judicial custody from 04.04.2020 and hence, he seeks bail for the petitioner.

4. The learned Additional Public Prosecutor would submit that the defacto complainant is none other than wife of the deceased and mother of the

petitioner. The defacto complainant and his another son was attacked by the deceased who was fully drunk, took the knife, inflicted stab and cut injuries. The petitioner had intervened to save his mother and his brother. In the process, the deceased had sustained injuries and thereafter died. He further submits that investigation is almost over. However, he opposed to grant 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 petitioner is in judicial custody from 04.04.2020, 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) 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 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.

28.05.2020

Index : Yes/No

Internet : Yes/No

Speaking order/Non-speaking order
mpa

To

1. The learned Principal District and Sessions Judge, Tiruvallur.
2. The learned Judicial Magistrate, Thiruvottiur.
3. The Inspector of Police,
M5 Ennore Police Station,
Ennore, Chennai-600057.
4. The Public Prosecutor,
High Court, Madras.
5. The Superintendent,
Central Prison, Puzhal, Chennai.

CRL.O.P.No. 7959 of 2020

M.NIRMAL KUMAR.J,

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