

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2020

CORAM

THE HONOURABLE MR.JUSTICE. M. NIRMAL KUMAR

Crl. O.P. No.8150 of 2020

Anas Maideen

... Petitioner

Vs.

The State Rep. by,
The Inspector of Police,
Koothanallur Police Station,
Tiruvarur District.

(Crime No. 213 of 2009)

(S.C.No.62/2010 - Hon'ble Principal District
& Sessions Court, Tiruvarur)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C, to enlarge the petitioner on bail in Crime No.213 of 2009 pending on the file of the respondent police.

For Petitioner. : Mr. L .S. M. Hasan fizal

For Respondent : Mr. Iyyappa Raj,
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 05.03.2020 for the alleged offences punishable under Section 302 of Indian Penal Code, 1860 in Crime No.213 of 2009, on the file of the respondent police, seeks bail.

2. It is a case of jumped bail. The case of the prosecution is that there were wordy quarrels between the victim and the petitioner which were frequently settled amicably by the members of the locality. While so, on 28.09.2019, there was a quarrel between the petitioner and victim which resulted in police complaint. Therefore, the petitioner had inflicted injuries on the victim, resulting in the death of the victim. Hence the case has been registered.

3. The learned counsel for the petitioner would submit that the petitioner was earlier granted bail by the Trial Court. The petitioner got employment as unskilled employee in the Gulf Country and due to his poverty and financial necessity and to feed his family, the petitioner had taken up employment in Gulf Country without knowing the consequences of registration of the above case. Further would submit that the petitioner had engaged an advocate to inform him about the progress of the case and about the petitioner's participation and that the advocate, engaged by him had stated that

the case has been put in cold storage and the petitioner's appearance is not necessary. Thereafter, the petitioner had been continuing his employment in the Gulf Country from the year 2011 and for the past 9 years he had been working in Gulf Country. He would further submit that the petitioner would co-operate with the trial hereafter and seeks for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the petitioner is involved in a murder case and was granted bail and also participated in the committal proceedings and thereafter appeared before the Sessions Court, Tiruvarur and thereafter, from the year 2011 he was absconding. Hence, Non Bailable Warrant was issued against the petitioner on 22.02.2011. For the past 9 years, the respondent police was making search for the petitioner. On the regular review meeting, the respondent taken to task for not executing the Non Bailable Warrant. The petitioner's family members were not co-operative and that they have not informed the whereabouts of the petitioner. Thereafter, Look Out Circular was issued for the absconding accused and the above case was also transferred to the long pending case register in Case No.2/2018. The petitioner was absconding for the past 9 years and finally the petitioner had come back to India on 06.03.2020. On his arrival at Trichy Airport, the petitioner was arrested by the respondent police. In this case, 18 witnesses are to be examined and within the stipulated time, the respondent police would produce the witnesses and complete the trial. He would further submit that if the petitioner is let out on bail, there is every possibility that he would abscond and the trial would be stalled. Further submitted that the offence was of the year 2009 and charge sheet came to be filed in the year 2010 and for the past 10 years, the case is still kept pending. Hence he vehemently opposed for the grant of bail to the petitioner.

5. Considering the submissions made by the either side and on perusal of the material placed, the petitioner had left India in the year 2011 and he was on his employment in the Gulf and now he has come back to India. On his arrival at the Airport, Trichy, he was arrested. The petitioner submits that he would co-operate with the trial and hereafter, he will not be a reason for any delay in the progress of the trial, in any manner. Further the Look Out Circular has already been issued against the petitioner and the petitioner cannot now take any travel to abroad and the petitioner has to necessarily stay back in his native.

6. In view of the above and considering the submissions made by the learned Counsel for the petitioner that due to the petitioner's confinement and loss of income, the petitioner's family is put to great hardship, this Court is inclined to grant bail to the petitioner subject to the following conditions:

- (a) 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 their release;

- (b) the petitioner shall execute two sureties out of which, one surety must be a blood brother to offer solvent surety for a sum of Rs.25,000/- (Rupees twenty five thousand only) each, before the concerned Magistrate within 15 days from the date of lifting of the lockdown and the commencement of the Court's normal functioning, 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 on every Monday, Wednesday and Saturday at 10.30 a.m., and on all hearing dates before the Trial Court without fail.
- (e) the petitioner has to surrender his passport. If the passport has already been impounded, not to be handed over to the petitioner till the completion of the trial;
- (f) the Trial Court is directed to complete the trial within a period of six months from the date of lifting of the lockdown and the commencement of the Court's normal functioning,
- (g) the petitioner shall not commit any offences of similar nature;
- (h) the petitioner shall not abscond either during investigation or trial;
- (i) the petitioner shall not tamper with evidence or witness either during investigation or trial;
- (j) On breach of any of the aforesaid conditions, the learned Judicial 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];
- (k) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC;

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

-sd/-

16/06/2020

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 AND
SESSIONS COURT, TIRUVARUR.

2 THE INSPECTOR OF POLICE
KOTHANALLUR POLICE STATION,
TIRUVARUR DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT
CENTRAL JAIL, TIRUCHIRAPPALLI.

CC to M/S L.S.M.HASAN FIZAL Advocate on payment of necessary charges

CRL OP.8150/2020

Date :16/06/2020

RVR 01/10/2020