

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.8358 of 2020

Deepa,

... Petitioner

Vs.

The Inspector of Police,
Virudhachalam Police Station,
Cuddalore District.
(Crime No.231 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.231/2020 Pending investigation on the file of the Respondent Police.

For Petitioner : Mr.G.BALAMANIKANDAN

For Respondent : Mr.S.Karthikeyan

Additional Public Prosecutor

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ORDER

The petitioner, who was arrested and remanded to judicial custody on 28.05.2020 for the offence punishable under Sections 294(b), 323, 324, 302 of IPC in Crime No. 231 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the deceased is the husband of the petitioner. The petitioner was given in marriage to the deceased. The deceased was an alcoholic and he was not attending any work, not making any earning to support his family. The petitioner was unable to bear the torture and harassment of the deceased. Hence, she had come to her parent's house and she was residing there. The deceased consumed alcohol came to the parent's house of the petitioner and picked up quarrel with her and also abused and assaulted her. The father and brother of the petitioner, a neighbour of the petitioner intervened and tried to reason out with the deceased. But the deceased became aggressive and started attacking everyone, there was exchange of blows during the commotion, the deceased fell down, sustained injuries and later died. Hence the complaint.

3. The learned counsel for the petitioner would submit that the petitioner was given in marriage to the deceased. The deceased was a drunkard and used to assault the petitioner and harass her. Unable to bear any further, she was staying with her parent's where the deceased came fully drunk, picked up quarrel and assaulted the petitioner which was questioned by the petitioner's father, brother and the neighbour, later they intervened to save the petitioner being further assaulted by the deceased. In

the meanwhile, the deceased fell down, sustained injuries and thereafter he died. The occurrence had taken place in the parent's house of the petitioner. The deceased is the aggressor who was alcoholic, picked up quarrel and fell down sustained injuries. The petitioner is not the cause for it. He further submitted that this Court had granted bail to the father and brother of the petitioner in Crl.O.P.No.7662 of 2020 by an order dated 20.05.2020 who arrayed A1 and A2. Further, neighbor A4 granted interim bail by this Court in **Crl.O.P.No.7554 of 2020** by an order dated 14.05.2020. He would further submit that the petitioner is in judicial custody from 28.05.2020 and therefore, he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the deceased is none other than the husband of the petitioner. The deceased was an alcoholic, without any income, tortured and beaten the petitioner. When the petitioner was attacked by the deceased, the father and brother of the petitioner had intervened the deceased. Being in drunkard stage, he fell down and later died. The post-mortem report shows that the deceased was drunk at that time. He objected for the grant of the bail since the petitioner was arrested only on 28.05.2020.

<http://www.judis.nic.in> 5. Considering the facts and circumstances of the case and also considering the

fact that the deceased being aggressor, drunkard, had gone to the house of the petitioner's parents, picked up quarrel and beaten her. Thereafter, he fell down sustained injuries and later died. In view of the same, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(a) the petitioner shall execute her 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 her release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lockdown and commencement of regular functioning of Court below, 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.

09.06.2020

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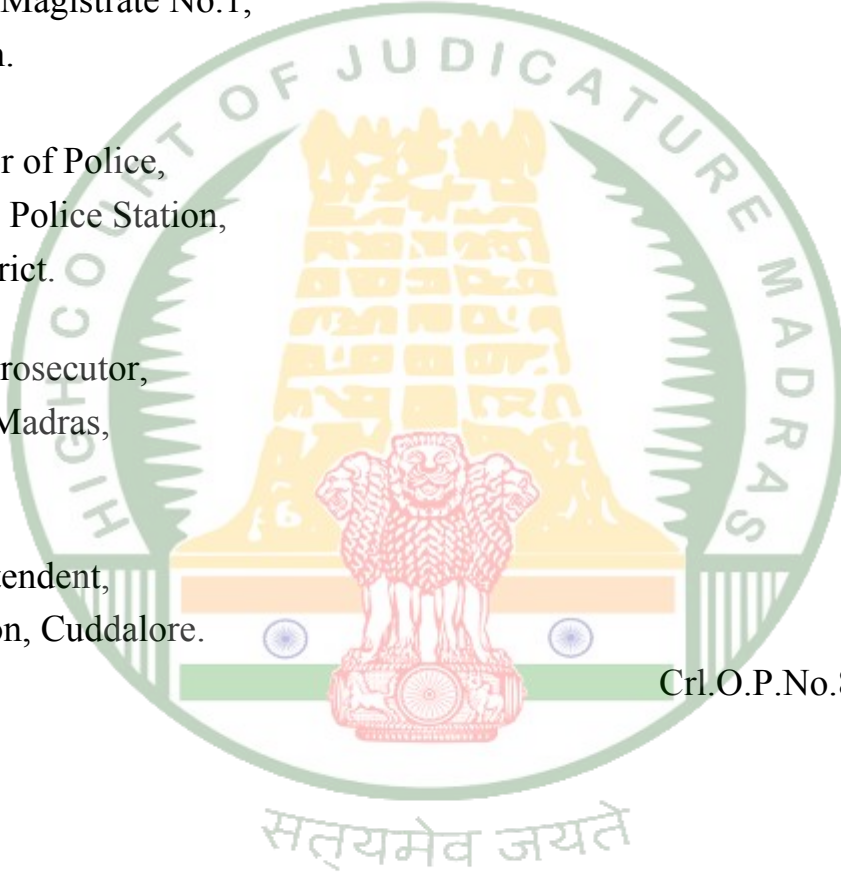


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M.NIRMAL KUMAR.J,
mpa

To

1. The learned Principal Sessions Judge, Cuddalore.
2. The Judicial Magistrate No.1,
Vridhachalam.
3. The Inspector of Police,
Virudhachalam Police Station,
Cuddalore District.
4. The Public Prosecutor,
High Court of Madras,
Chennai-104.
5. The Superintendent,
Central Prison, Cuddalore.



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