

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2020

CORAM :

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.10282 of 2020

E.Rajesh

... Petitioner

Vs.

State Rep. by
The Inspector of Police
Cuddalore O.T.P.S
Cuddalore District.
Crime No.753 of 2020

... Respondent

PRAYER: This Criminal Original Petition filed under section 439 of Cr.P.C., seeking to enlarge the petitioner on bail in respect of the above Crime No.64 /2020 on the file of the respondent police.

For Petitioner : Mr.V.Balamuruganre

For Respondent : Mr.T.Shummugarajeswaran
Govt. Advocate (Crl.side)

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 25.05.2020 in Crime No.64 of 2020 on the file of the respondent police for the offences punishable under Sections 498(A) and 304(B) IPC, seeks bail.

2. The case of the prosecution is that A1 got married to deceased/Sangeetha on 26.10.2015 at the time of marriage 35soverigns of gold and other house hold articles were gifted, within one month of marriage it was informed by the deceased/Sangeetha to her parents through phone that her in laws had harrassed her demanding further dowry of Rs.2lakhs. In the meanwhile, she had become pregnant in furtherance to the harassment, the accused had aborted the child and sent her back to the parents house. Thereafter, she was living in the parental home. However, the petitioner continuously harassed the deceased, due to which the victim committed suicide on 12.02.2020, on seeing his daughter committed suicide the father of the victim/Sangeetha and the husband of the defacto complainant/Pavadaisamy committed suicide on the same day. Based on the complaint given by the defacto complainant a case was registered for the offences under Section 498(A) and 304(B) IPC. The petitioner

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would submit that the marriage between the petitioner and the victim/Sangeetha took place on 26.10.2015 according to Hindu rites and customs, after the marriage it was found that the Sangeetha was suffering from the psychiatric problem, during treatment tendency of suicide was found. However, she did not cooperate for the treatment and day by day the condition and behaviour become uncontrollable. The parents of the victim came and taken back to her house. Thereafter, the petitioner had filed petition for divorce in HMOP.No.206 of 2016 before the Sub Court, Cuddalore. Subsequently, the said victim/Sangeetha had moved TR.CMP.No.490 of 2016 before this Court and the case was transferred to the file of Family Court, Cuddalore in HMOP.No.148 of 2018. In the meanwhile, the said victim also preferred another complaint under the Domestic Violence Act. The petitioner had preferred Crl.OP.No.27686 of 2018 and this Court had granted stay by an order dated 28.11.2018. There was no contact between the petitioner and the family members of the defacto complainant and more particularly with the victim. Except the bald allegation, that there was harassment on account of demand of additional dowry there is no other allegation against the petitioner. He would further submit that a suicide note had been recovered from the house of the defacto complainant, which seems to be doubtful. The mother of the petitioner by name Indirani was granted anticipatory bail by this Court in Crl.OP.No.3360 of 2020 and the brothers of the petitioner had been granted bail in Crl.OP.No.8686 of 2020 dated 15.06.2020. He would submit that the mother of the petitioner aged 78years by name Indirani has passed away on 05.07.2020 and as a son the peittioner has to perform the last rites. He would further submit that the petitioner is in custody from 24.05.2020 and major part of the investigation is over. The body of his mother is kept in the mortuary awaiting orders of bail to perform the last rites and thereby he would seek bail.

4. The learned Government Advocate would submit that the marriage between the petitioner and one Sangeetha had taken place on 26.10.2015, at the time of marriage 35soverign of Gold and house hold articles worth Rs.56,000/- and a sum of Rs.11lakh was given as dowry, within one month of marriage the petitioner along with the parents and relatives harassed the victim/Sangeetha and demanded additional dowry and also aborted the pregnancy. Later she was driven out of the matrimonial home and the petitioner and the family members continued to harass the victim, due to which the victim committed suicide on 12.02.2020 by consuming poison at her house, her father/Pavadaisamy coming to know the death of his daughter he also consumed poison and committed suicide. He would submit that the co-accused have been enlarged on bail and the mother of the petitioner had been granted anticipatory bail. He would on instructions submit that Mrs.Indirani, the mother of the petitioner has passed away and the funeral date is yet to be fixed, awaiting bail for the petitioner. He would submit that major part of the investigation is over and the report of the RDO and the forensic report are awaited.

5. Taking into consideration the facts and circumstances of the case and that the counsel for the petitioner has brought to the knowledge of this Court that the mother of the petitioner has passed away and the funeral date is yet to be fixed awaiting bail to the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, 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 and thereafter on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned Judicial Magistrate No.II, Cuddalore, within 15 days from the date of lifting of the lock down 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 day at 5.30pm., for a period of ten days commencing from 13.07.2020 and thereafter, 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 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];

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

(j) It is made clear that the petitioner shall not come out of the house and he will stay inside the house.

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

-sd/-

06/07/2020

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 JUDICIAL MAGISTRATE,
NO.II, CUDDALORE

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
CUDDALORE O.T. POLICE STATION,
CUDDALORE DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

CC to M/S. V.BALAMURUGANE Advocate on payment of necessary charges

CRL OP.10282/2020

सत्यमेव जयते Date :06/07/2020

RVR 28/08/2020

WEB COPY