

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.07.2020

CORAM :

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

Crl.O.P.No.10494 of 2020

Mohammed Ali

... Petitioner

Vs.

State rep. by its

... Respondent

The Inspector of Police,
H8, Thiruvottiyur Police Station,
Thiruvallur District.
(Cr.No.807 of 2020)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail pending investigation in Crime No.807 of 2020 on the file of the respondent police.

For Petitioner : Mr.M.P.Saravanan

For Respondent : Mr.Shunmugarajeswaran

Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 26.04.2020 for the offences under sections man missing @ 147, 148, 341, 294(b), 323, 302, 201 r/w. 120B IPC in Crime No.807 of 2020 on the file of the respondent police seeks bail.

2. The case of the prosecution is that initially, based on the complaint given by one Revathi that her son named Jayaraman, 18 years was missing, a case was registered under 'man missing'. Later, during investigation, the fact came to light that the deceased and the other accused persons were Ganja addicts and while consuming Ganja, a quarrel arose between them due to which, the petitioner along with other 5 accused, assaulted and committed the murder of the deceased and thereafter, buried the body in the sea shore. Therefore, the offence was altered to Section 341, 147, 148, 323, 294(b), 302, 201 r/w 120(B) IPC.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case since, he happens to be the friend of the other accused. He further submitted that co-accused has been granted bail by this Court in Crl.O.P.No.10131 of 2020 dated 06.07.2020. hence, he seeks to grant bail to the petitioner.

4.The learned Government Advocate (Criminal Side) would submit that the deceased and the accused persons are friends and on the fateful day, when they were consuming Ganja, there was a quarrel between the accused persons and the deceased following which, the accused persons assaulted the deceased resulting in the death of the deceased. Thereafter, the body of the deceased was buried in the sea shore. He would further submit that the major part of the investigation is over and the chemical analysis report is awaited. He would also submit that there is no previous case pending against this petitioner. However, he opposed for the grant of bail to the petitioner.

5.Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel and also considering the period of incarceration by the petitioner from 26.04.2020, 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, Thiruvottiyur, Chennai, within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, 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 daily at 10.30 a.m. for a period of two weeks and thereafter on every Monday at 10.30 am. until further orders.**

(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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

-sd/-
13/07/2020

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,
THIRUVOTTIYUR.

2 THE CHIEF JUDICIAL MAGISTRATE,
THIRUVALLUR [FOR INFORMATION].

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI.

4 THE INSPECTOR OF POLICE
H8, THIRUVOTTIYUR POLICE STATION,
THIRUVALLUR DISTRICT.

5 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

CC to M/S. M.P.SARAVANAN Advocate on payment of necessary charges

CRL OP.10494/2020

Date :13/07/2020

MN-CS-12/08/2020