

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.07.2020

CORAM :

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

Crl.O.P.No.10660 of 2020

Sivakumar

... Petitioner

Vs.

State by the Inspector of Police
Jamunamarathur Police Station
Tiruvannamalai District
(Crime No.250 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.250 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Ms.M.Rebecca

For Respondent : Mr.T.Shunmugarajeswaran
Government 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 30.04.2020 for the offences punishable under Section 294 (b) and 302 IPC, in Crime No.250 of 2020, seeks bail.

2. The case of the prosecution as per the defacto complainant Papathi is that due to previous enmity in respect of land dispute, the petitioner had assaulted the husband of the defacto complainant with hands, due to which, the deceased died on the spot.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that there was a quarrel between the deceased and the petitioner due to pathway dispute, due to which, the deceased started to attack the petitioner, when the same was prevented, the deceased due to hypertension fell down and subsequently died, whereas, a false complaint has been given that the petitioner had assaulted the victim with hands and committed the murder of the deceased.

4.The learned Government Advocate (Crl. Side) would submit that due to land dispute, the petitioner twisted the hands of the defacto complainant's husband, resulting in death. Investigation is completed and the final report has been filed before concerned Magistrate.

5.Taking into consideration of the facts and circumstances, and also considering the submissions of the learned counsel and the petitioner is suffering incarceration from 30.04.2020, 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 condition to execute 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, Vaniyambadi, **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 one week and thereafter, on first Monday of every month at 10.30 a.m. 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 petitioner 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/-
17/07/2020

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,
VANIYAMBADI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
JAMUNAMARATHUR POLICE STATION,
TIRUVANNAMALAI DISTRICT.

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

CRL OP.10660/2020

Date :17/07/2020

MK:20/08/2020