

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.07.2020

CORAM :

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

Crl.O.P.No.11288 of 2020

Muthu

... Petitioner

Vs.

State Rep. by
Inspector of Police
Mecheri Police Station
Salem District
(Crime No.634 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.634 of 2020, pending investigation on the file of the respondent police.

For Petitioner : Mr.M.Mariappan

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 27.05.2020 for the offences punishable under Section 302 IPC, in Crime No.634 of 2020, seeks bail.

2.The case of the prosecution as per the defacto complainant one Selvi is that her husband Murugan had previous enmity in respect of his relationship with one Palanisamy, Chinnthangam, Senthil, Mohanraj and Muthu in that Village. On the previous day, there was a quarrel, while so, on the next day, the defacto complainant's husband was lying dead in the field with injuries. Based on the complaint given by the defacto complainant, a case was registered against the five persons as suspected accused. During the course of investigation, the fact came to light that the petitioner had illicit intimacy with the relative woman of the deceased. On the date of occurrence, when the petitioner had intercourse with his relative woman, the deceased had witnessed the same. Hence, the petitioner got enraged by the same, had assaulted the deceased with stones and resulting in his death.

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 even as per F.I.R. 5 persons were suspected to have done the murder of the deceased. He would further submit that there is no eye witness to the occurrence and based on the Extra Judicial confession recorded, the petitioner was implicated in this case. He would further submit that the petitioner had illicit intimacy with the relative woman of the deceased. On the fateful day, the deceased had seen the petitioner and his relative woman was having intercourse, due to which, the petitioner became enraged and assaulted the deceased with stones, resulting in him sustaining injuries and died. The petitioner was arrested on 27.05.2020.

4.The learned Government Advocate (Criminal Side) would submit that the petitioner is a married man and having three children. Meanwhile, the petitioner also had illegal intimacy with one Sudha, who is the relative of the deceased. On the date of occurrence, the petitioner had intercourse with the said Sudha, the deceased had seen the same, hence, the petitioner got angry and assaulted the defacto complainant with stones and caused his death.

5.Taking into consideration of the facts and circumstances, considering the submissions made by the learned counsels and also the period of incarceration suffered by 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 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) Thereafter, the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only), before the learned Judicial Magistrate No.II, Mettur, 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 everyday 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 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/-
31/07/2020

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, METTUR.

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MECHERI POLICE STATION,
SALEM DISTRICT.

+1 CC to M/S. M.MARIAPPAN Advocate on payment of necessary charges SR.No.5816

CRL OP.11288/2020

Date :31/07/2020