

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.08.2020

CORAM :

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

CrI.O.P.No.11038 of 2020

Mohammed Sabatulla Islam
S/o.Mohammed Amru Islam

... Petitioner

Vs.

State rep. by
The Inspector of Police
S-10, PALLIKARANAI POLICE STATION
Chennai
(Crime No.105 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail pending investigation in connection with Crime No.105 of 2020 on the file of the Respondent Police.

For Petitioner : Mr.R.Abu Bucker
For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (CrI. 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 18.02.2020 for the offences punishable under Section 174 Cr.P.C. @ into 302 IPC, in Crime No.105 of 2020, seeks bail.

2.The case of the prosecution is that the petitioner and his friends are residing in the same place. On 17.02.2020, one Yuvaraj who is the friend of the petitioner had lost his cell phone and the accused suspecting the victim had taken the cell phone, assaulted him and caused injury, due to which, he succumbed to death. Initially, the case was registered for the offence under Section 174 Cr.P.C. and later the same was altered to 302 IPC.

3.The learned counsel appearing for the petitioner would submit that the petitioner was arrested on 18.02.2020 and he has been in judicial custody for more than 190 days and the respondent police have not filed the final report. He would further submit that the petitioner is entitled for bail under Section 167 (2) of Cr.P.C.

4.The learned Government Advocate (Criminal Side) would submit

that the petitioner had committed the murder of the deceased. He would further submit that the petitioner is the native of West Bengal and if he is enlarged on bail, there is a possibility of him absconding.

5.At this juncture, learned counsel for the petitioner would submit that the petitioner is prepared to give sufficient sureties for his release.

6.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 that the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each (out of which one surety must be his wife and another local surety) before the learned Judicial Magistrate No.II, Alandur, Chennai, within a period of two weeks, failing which the bail granted by this Court shall stand dismissed automatically;

(b) 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;

(c) the petitioner shall on release from prison, report before the Respondent Police everyday at 10.30 a.m and 5.30 p.m. until further orders.

(d)the petitioner shall not commit any offences of similar nature;

(e)the petitioner shall not abscond either during investigation or trial;

(f)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g)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];

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

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

-sd/-
24/08/2020

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, ALANDUR, CHENNAI

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
S-10, PALLIKARANAI POLICE STATION,
CHENNAI.

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

CRL OP.11038/2020

Date :24/08/2020

RD 04/09/2020

WEB COPY