

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.07.2020

CORAM :

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

Crl.O.P.No.11269 of 2020

RAMAMOORTHY

S/o.Gopal

... Petitioner

Vs.

State rep. by its
Inspector of Police
NAMAKKAL Police Station
Namakkal District
(Crime No.742 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.742 of 2020, pending investigation on the file of the respondent.

For Petitioner : Mr.T.Gopinathan

For Respondent : Mr.T.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 28.05.2020 for the offences punishable under Section 302& 201 IPC, in Crime No.742 of 2020, seeks bail.

2.The case of the prosecution as per the defacto complainant Latchumanan is that his brother was married to A1. A2 has illicit intimacy with A1 and they have joined together and committed the murder of his brother.

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 the alleged occurrence stated to have taken place on 21.05.2020 and the complaint has been given by the brother of the deceased only on 28.05.2020 i.e. after 7 days. He would further submit that if at all the defacto complainant had any suspicion he should have given the complaint earlier and the delay in lodging the complaint would show that he has given a complaint on account of some other dispute between the defacto complainant and the wife of the deceased.

4.The learned Government Advocate (Criminal Side) would submit that the petitioner is the paramour of A1. A1 and the deceased got married thirteen years back and have two children. The wife of the deceased developed intimacy with the petitioner and Panchayat was also conducted in the village wherein the deceased showed photographs of A1 and A2 together and thereafter compromise was effected and A1 and the deceased were living together. He would further submit that the petitioner along with the wife of the deceased gave a sedative and while the deceased was in deep sleep, the petitioner along with A1 strangled the neck of the deceased with wire and caused the death and projected as if it was a natural death. He would further submit that the child of the deceased is an eye witness and the investigation is pending.

5. At this juncture, the learned Counsel for the petitioner would submit that if there had been eye witness, there is no reason for the delay in preferring the complaint.

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 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.1, Namakkal, 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 stay at Thiruchengode and report before the Thiruchengode Police Station daily at 10.30 a.m and 5.30 p.m. until further orders. The petitioner shall not enter into the jurisdiction limits of the respondent police.

(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/-
29/07/2020

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.1, NAMAKKAL

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
NAMAKKAL POLICE STATION,
NAMAKKAL DISTRICT.

5 THE OFFICER INCHARGE
THIRUCHENGODE POLICE STATION,
THIRUCHENGODE

CC to T.GOPINATHAN Advocate on payment of necessary charges

CRL OP.11269/2020

Date :29/07/2020

RD 27/08/2020