

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.08.2020

CORAM :

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

Crl.O.P.No.11354 of 2020

Ajith @ Ajith Kumar  
S/o.Kumar

... Petitioner

Vs.

State By  
The Inspector of Police  
Madipakkam Police Station  
Chennai  
(Crime No.648 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.648 of 2020, pending investigation on the file of the Respondent Police.

For Petitioner : Mr.R.Thamaraiselvan

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 20.06.2020 for the offences punishable under Section 294(b) 323 and 324 IPC altered into 302 IPC, in Crime No.648 of 2020, seeks bail.

2.The case of the prosecution as per the defacto complainant one Elumalai is that on 09.06.2020 when the petitioner and the defacto complainant were talking, the petitioner asked money for consuming liquor and when the defacto complainant refused, the petitioner assaulted him with stones and also kicked in the stomach, due to which, the deceased fell down. The victim was taken to the hospital and without responding to the treatment died on 19.06.2020. Originally a case was registered for the offence under Section 294(b) 323 and 324 IPC and after the death of the victim, it was altered to 302 IPC.

3.The learned counsel appearing for the petitioner would submit that the petitioner and the defacto complainant are known to each other. The occurrence is said to have taken place on 09.06.2020. Initially a complaint was given on 12.06.2020 and later the defacto complainant died due to some other reasons. Since the victim died after 10 days, the case was altered to 302 IPC and there is no proper explanation for the delay, due to previous enmity the petitioner has been falsely implicated in this case. The petitioner

was arrested on 20.06.2020 and is in judicial custody for 44 days.

4.The learned Government Advocate (Crl. Side) would submit that since the defacto complainant refused to give money for consuming liquor, the petitioner had assaulted him in the stomach on 09.06.2020. The victim died on 19.06.2020.

5.Taking into consideration of the facts and circumstances, considering the submissions made by the learned counsels, and also considering the period of incarceration suffered by the petitioner from 02.07.2020, 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) Thereafter, the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only), before the learned Judicial Magistrate, Alandur, 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/-  
03/08/2020

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,  
ALANDUR

2 THE SUPERINTENDENT,  
CENTRAL PRISON, PUZHAI, CHENNAI

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,  
MADIPAKKAM POLICE STATION,  
CHENNAI,

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

CRL OP.11354/2020

Date :03/08/2020

RD 01/09/2020

WEB COPY