

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.08.2020

CORAM :

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

Crl.O.P.No.11975 of 2020

Mathalai Mary

... Petitioner

Vs.

State, rep. by the
Inspector of Police
Anthiyur Police Station
Erode District
(Crime No.427 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.427 of 2020 on the file of the Respondent.

For Petitioner : Mr.J.Jawahar

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 08.06.2020 for the offences punishable under Section 302 IPC, in Crime No.427 of 2020, seeks bail.

2.The case of the prosecution as per the defacto complainant Josaphin Mary is that she was informed that her sister in law had committed the murder of her brother who is the husband of the petitioner by throwing stone on his head.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent. He would further submit that on 07.06.2020, the petitioner's husband was found dead with head injuries. The defacto complainant who is her sister-in-law, suspected that the petitioner would have committed the murder of the deceased, lodged a complaint before the respondent police. He would further submit that the defacto complainant is not the eye witness to the occurrence.

4.The learned Government Advocate (Criminal Side) would submit that the petitioner is the wife of the deceased namely Fransis Xavier. The deceased was a drunkard and frequently quarreled with the petitioner. On the fateful day, the petitioner had during a

quarrel thrown stone on the head of her husband due to which, he died. He would further submit that the investigation is pending.

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 her 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 her 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 - II, Bhavani, 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. for a period of one month and thereafter on the 1st working day of month 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/-

07/08/2020

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, BHAVANI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
ANTHIYUR POLICE STATION,
ERODE DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON WOMENS WING,
COIMBATORE.

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

CRL OP.11975/2020

Date :07/08/2020

RVR 14/09/2020

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