



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.08.2020

CORAM

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

Cr1.O.P.No.11921 of 2020

A.Mohan

... Petitioner

Vs.

The Inspector of Police,
C-1, Police Station,
Sriperumbathur
Kanchipuram
(Crime No.1973 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest concerned in Crime No.1973 of 2020 pending on the file of the Respondent police.

For Petitioner : Mr.Rupert J.Barnabas

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 302, 147, 148, 294(b), 341, 323, 324, 307 and 506(II) IPC, in Crime No.1973 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant one Revathy is that her cousin brother John Rose who was living with her completed his 10th standard and was working in a Private Company and that on 26.06.2020 in his friend one Eli @ Kathick had come to her house and had taken her brother and that her brother did not return that night. On the next day she enquired Eli @ Karthick about her brother, he replied that he is not aware of her brother's whereabouts. Thereafter, a complaint was given to the respondent on 03.07.2020. Based on her complaint, a case in Crime No.1973 of 2020 was registered under the caption "Man missing". During the course of investigation, it came to light that the accused suspecting Eli @ Karthick and the deceased John Rose to be friends of one Velmurugan,



have assaulted them indiscriminately, due to which, John Rose died on 26.06.2020 at night hours and that the accused have thrown the body of the deceased inside a bush near Hudson Hotel. On 07.07.2020, the body of John Rose found near the bush of Hudson Hotel. Thereafter, one Raguman of Pondur Village was arrested on suspicion and later based on his confession, the case was altered to one under Section 302 IPC.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case based on the confession recorded from one Raguman who had claimed to be the brother of the petitioner. He would further submit that the petitioner has no connection whatsoever with the said Raguman and he belongs to different religion and the petitioner belongs to different religion. He would further submit that even as per the so called confession statement of Raguman, there is no enmity between the petitioner and other accused on one side and Eli @ Karthick and John Rose on the other side. He would further submit that even as per the statement of the defacto complainant, she had last seen Eli @ Karthick along with her brother on 26.06.2020 and she had also seen Eli @ Karthick on the next day and when she had enquired him about the whereabouts of her brother, he had not spoken anything about John Rose or the incident on the previous night. This fact falsifies the entire case of the prosecution. Further even as per the confession of Raguman the petitioner is stated to have instigated the said Raguman and he has not touched the victim. The learned counsel for the petitioner would submit that the petitioner had been successfully preventing illegal sand quarrying in Sriperambathur area and he has been hindrance to the sand quarrying mafia and at the instance of the sand mafia the respondent police has falsely implicated the petitioner, based on the so called confession stated to be recorded from Raguman. Further Eli @ Karthik is the person who was seen last in the company of the deceased by the defacto complainant and if the incident had happened he would have disclosed it to the defacto complainant or the respondent on the next day. This falsifies the entire prosecution case.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is the associate of other accused who were arrested on 09.07.2020. As per the confession of the arrested accused Raguman, while the accused were enquiring one Velmurugan, the deceased and Eli @ Karthick had gone to the place of occurrence and the accused suspecting them to be the associates of said Velmurugan had assaulted them, due to which, John Rose died and Eli @ Karthik sustained serious injuries. Thereafter, the accused have thrown his body of John Rose in a shrub near the Hudson Hotel. He would further submit that the arrested accused have confessed about the presence of the petitioner in the scene of occurrence and only on the instigation of the petitioner and other accused, they have assaulted Eli @ Karthick and John Rose. He would further submit that the petitioner has got five previous cases registered against him for commission of theft of sand.



5. At this juncture, the learned counsel for the petitioner would submit that earlier the respondent police has falsely implicated the petitioner in cases of theft of sand and other then cases related to theft of sand the petitioner has not involved in any other crime cases so far.

6. Heard the learned counsels on either side and perused the materials.

7. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

(a) Accordingly, the petitioner is ordered to be released on bail in the event of his arrest by the respondent police or on his appearance, within a period of fifteen days after lifting of lockdown or the commencement of Court's normal functioning whichever is earlier, before the learned Judicial Magistrate Court, Sriperumbathur, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed automatically.

[b] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the respondent/police may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] the petitioner shall report before the respondent police daily at 10.30 a.m., and 5.30 p.m. until further orders.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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].

[g] 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.

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-sd/-
26/08/2020

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 COURT,
SRIPERUMBATHUR.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
C-1, POLICE STATION,
SRIPERUMBATHUR,
KANCHIPURAM.

CC to M/S. RUPERT JOSHUA BARNABAS Advocate on payment of
necessary charges

CRL OP.11921/2020

Date :26/08/2020

cs 14/09/2020