

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 12116 of 2020

G.Sivaraj

... Petitioner/Accused No.1

Vs.

The State represented by,
The Station House Officer,
(*)Oomangalam Police Station,
Cuddalore District.
(*) (Crime No. 106 of 2019)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in concerned **(*) (Crime No. 106 of 2019)**, on the file of the Station House Officer, Thirupapuliyur Police Station, Cuddalore District

For Petitioner : Mr.A.T.Anbu Kumar

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 12.05.2020 for the offences punishable under Sections 302 & 201 of IPC in **(*) (Crime No. 106 of 2019)** on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the defacto complainant Sudha is that on 12.07.2019, her husband, who is working as Transport Manager, did not come back home and based on the complaint given by her, a case was registered under "man missing". After ten months, a charred body was found in a cashew grove. During the course of investigation, it came to light that the defacto complainant along with the petitioner herein had committed murder of her husband.

3 The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case on false allegation that the petitioner had illicit intimacy with the wife of the deceased, who is the defacto complainant in this case. He further submitted that the petitioner was arrested on 12.05.2020. He would further submit that except alleged confession, there is no other materials and no eye witness to the occurrence. Hence, he prays to grant bail to the petitioner.

4 The learned Government Advocate appearing for the respondent would submit that the wife of the deceased had developed illicit intimacy with the petitioner and they had taken her husband to a secluded place and committed murder by pouring petrol on him. Therefore, A2/defacto complainant had given a complaint that her husband was missing. He further submitted that investigation has been completed and final report has been filed before the learned Judicial Magistrate No.III, Cuddalore. However, he vehemently opposed to grant bail to the petitioner.

5 Taking into consideration of the facts and circumstance of this case and also considering the fact that the petitioner is in jail from 12.05.2020 and the investigation is completed, 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 executing 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) the petitioner shall execute two sureties, each for a sum of Rs.10,000/- (Rupees Ten Thousand only), before the learned Judicial Magistrate No.II, Cuddalore, within 15 days from the date of lifting of the lock down or the commencement of the Court's normal functioning or which ever 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 week and thereafter the petitioner shall report before the learned Judicial Magistrate No.III, Cuddalore on the first working day of every month until further order.

(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 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

(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.

(*) AMENDED AS PER ORDER OF THIS COURT DATED 25/08/2020 MADE IN CRL.M.P.NO.4980/2020.

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, CUDDALORE

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

**(*) 3 The Station House Officer,
(*) Oomangalam Police Station,**
Cuddalore District.

4 STATION HOUSE OFFICER
THIRUPPAPULIYUR POLICE STATION,
CUDDALORE DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

CC to M/S A.T.ANBU KUMAR Advocate on payment of necessary charges

CRL OP.12116/2020

Date :07/08/2020

RVR 14/09/2020

RVR 23/10/2020