

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.08.2020

CORAM :

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

Crl.O.P.No.12240 of 2020

Devaraj

... Petitioner

Vs.

The State Rep. by
The Inspector of Police
K.V.Kuppam Police Station
Vellore.
(Crime No.347 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail pending investigation in Crime No.347 of 2020, on the file of the respondent police.

For Petitioner : Mr.S.Sugendran

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 01..06.2020 for the offences punishable under Section 302 IPC, in Crime No.347 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant one Priya is that her husband was in drunken mood and had entered into the house of the petitioner and kicked the food that was kept inside the house and came out and slept, enraged by the said act, her brother in law / the petitioner herein had assaulted her husband with rice pounder and committed the murder.

3.The learned counsel appearing for the petitioner would submit that it is a case of fratricide, the deceased is the brother of the petitioner. He would further submit that even as per F.I.R., it is clear that the deceased stated to have gone into the house of the petitioner in a drunken mood and created ruckus in the house, during which, the incident happened. He would further submit that the defacto complainant is not the eye witness to the occurrence. He

would further submit that the petitioner was arrested on 01.06.2020 and is in judicial custody for more than 75 days.

4.The learned Government Advocate (Crl. Side) would submit that the deceased is the brother of the petitioner, during the quarrel, the petitioner had assaulted him in a rice pounder, due to which, he sustained injury and died on the spot. Investigation is pending.

5.Taking into consideration of the facts and circumstances and also considering the submissions made by the learned counsels and also considering 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)the petitioner shall execute **two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each**, before the learned Judicial Magistrate, Katpadi, **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 Aadhaar 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/-
14/08/2020

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
KATPADI.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
K.V.KUPPAM POLICE STATION,
VELLORE.

5 THE SUPERINTENDENT
CENTRAL PRISON
VELLORE

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

CRL OP.12240/2020

Date :14/08/2020

TA-08/09/2020

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