

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.08.2020

CORAM :

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

Crl.O.P.No.12706 of 2020

Kumar
S/o.Perumal

... Petitioner

Vs.

State Rep. by the Inspector of Police
Krishnagiri Taluk Police Station
Krishnagiri District
(Crime No. 581 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.581 of 2020, pending investigation on the file of the respondent.

For Petitioner : Mr.E.Kannadasan
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 04.07.2020 for the offences punishable under Section 294(b), 302 IPC subsequently altered into 294(b), 302 of IPC in Crime No.581 of 2020, seeks bail.

2.The case of the prosecution as per the defacto complainant Muthazhagu is that, on 01.07.2020, while he along with his friends were consuming alcohol near TASMAG shop, the deceased came there and quarrelled with the petitioner, during which, the petitioner assaulted the victim Venkateshwaran with a broken bottle resulting in him sustaining injuries, immediately, the victim was taken to hospital. Originally the case was registered under Sections 294 (b) and 307 IPC, after two days, the victim died following which, the case was altered to one under Sections 294(b) and 302 IPC.

3.The learned Counsel for the petitioner would submit the petitioner is innocent and he has been falsely implicated in this case. He would further submit that even as per the F.I.R, the deceased waylaid the petitioner and demanded money when the same was refused, there was a quarrel. He would further submit that there is no premeditation to do away with the deceased and the

incident happened during the sudden quarrel. He would further submit that it is a case and a case in counter. On the complaint given by the petitioner, counter case in Crime No.582 of 2020 has been registered against the deceased for the offence under Sections 294(b), 324 and 506 (ii) IPC. He would further submit that the petitioner has been in judicial custody from 04.07.2020. Hence, he prays for grant of bail to the petitioner.

4.The learned Government Advocate (Criminal Side) would submit that the petitioner had committed the murder of the deceased during the quarrel in front of the TASMAL shop. He would further submit that a counter case in Crime No.582 of 2020 has also been registered against the deceased for the offence under Sections 294(b), 324 and 506 (ii) IPC. 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 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 within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, and execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only), before the learned Judicial Magistrate No.II, Krishnagiri, 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 on release from prison shall stay at Singarapettai and report before the Singarapettai Town Police Station everyday at 10.30 a.m and 5.30 p.m. until further orders. The petitioner shall not enter into the jurisdiction limits of the respondent police.

(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/-
24/08/2020

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, KRISHNAGIRI

2 THE OFFICER INCHARGE
SUB-JAIL, HOSUR

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KRISHNAGIRI TALUK POLICE STATION,
KRISHNAGIRI DISTRICT.

5 THE OFFICER INCHARGE
SINGARAPETTAI TOWN POLICE STATION,
SINGARAPETTAI

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

CRL OP.12706/2020

Date :24/08/2020

RD 03/09/2020