

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.09.2020

CORAM :

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

Crl.O.P.No.14392 of 2020

Desingh,
S/o. Viswanathan

... Petitioner

Vs.

State Rep. By
The Inspector of Police
Anakkovoor Police Station,
Tiruvannamalai District.
Crime No.2010 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.2010 of 2020 on the file of the Inspector of Police, Annamalai Nagar Police Station, Cuddalore District.

For Petitioner : Mr. S. Sarath Chandran
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 06.08.2020 for the offences punishable under Sections 294 (b) and 307 of IPC in Crime No.2010 of 2020, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Dhanalakshmi, wife of the petitioner is that the petitioner had affair with another lady. When it was questioned by the defacto complainant, the petitioner had demanded money from her and under the influence of alcohol, assaulted her with knife on her head and face due to which, she sustained injuries. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit the petitioner and the defacto complainant are husband and wife and the marriage took place 12 years back. He would further submit that the case of matrimonial dispute, has been exaggerated and a false complaint has been given by the wife of the petitioner. He would submit that the petitioner was arrested on 05.08.2020 and the victim has been discharged from the hospital. Hence, he seeks for grant of bail to the petitioner.

4.The learned Government Advocate (Criminal Side) would vehemently oppose stating that the petitioner is the husband of the defacto complainant and that the petitioner had affair with another lady. When the defacto complainant questioned the same, the petitioner had demanded money from her and on the date of occurrence, the petitioner under the influence of alcohol, had assaulted her with knife due to which, she sustained injuries on her head and face and the victim was treated as in patient. He would further submit that now the injured has been discharged from the hospital and there is no previous case against the petitioner.

5.Taking into consideration of the facts and circumstances and the submissions made by the learned counsels and the fact that the injured has been discharged from the hospital and also considering the period of incarceration of the petitioner from 06.08.2020, 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;

(b) Thereafter, 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 learned Judicial Magistrate, Cheyyar, within a period of two weeks from the date of commencement of the Court's normal functioning, 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 his release from prison, shall report before the respondent police daily at 5.30 p.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 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];

(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/-
16/09/2020

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,
CHEYYAR

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ANAKKOVOR POLICE STATION,
TIRUVANNAMALAI DISTRICT.

CC to M/S S.SARATH CHANDRAN Advocate on payment of necessary charges sr

CRL OP.14392/2020

Date :16/09/2020

RD 16/09/2020

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