

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.09.2020

CORAM :

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

CRL.O.P.No.14921 of 2020

Uthirapathy

... Petitioner

Vs.

State rep by
The Inspector of Police
Perugavazhanthan Police Station
Thiruvarur District
(Crime No.831 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.831 of 2020 on the file of the respondent police.

For Petitioner : Mr.Swamisubramanian

For Respondent : Ms.S.Thankira
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 23.08.2020 for the offence punishable under **Sections 306 and 116 of IPC, in Crime No.831 of 2020**, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Sudha is that the petitioner and yet another person namely Arivazhagan were doing Mason work opposite to her house. While so, the said Arivazhagan lost his cell phone. The petitioner suspecting that the victim would have taken the phone, abused her. Due to the harassment, she attempted to commit suicide on 20.08.2020 by self immolation. Based on her complaint, originally the case was registered for offence under Sections 306 and 116 IPC and later, the victim succumbed to injuries and the offence was altered to Section 306 IPC.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and a false case has been foisted against the petitioner. He would submit that the cell phone belonging to the colleague of the petitioner was found missing. Since, the victim was living in the opposite house, they

asked the defacto complainant and her father-in-law whether they had seen anybody taking the phone. Thereafter, the father in law has questioned her about the theft due to which, she got frustrated and attempted to commit suicide by self immolation and died after five days. He would further submit that the petitioner has been suffering incarceration from 23.08.2020. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that the petitioner's phone was found missing and the petitioner suspected that the defcato complainant would have stolen the mobile phone, abused and harassed her due to which, she committed suicide by self immolation. She would further submit that the investigation is pending.

5. Taking into consideration the facts and circumstances of the case and 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;

(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-II, Mannargudi, Thiruvavur District, 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 stay at Tanjavur and report before the East Police Station, everyday at 10.30 a.m. until further orders. The petitioner shall not enter into the jurisdictional 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 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.

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-

24/09/2020

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 NO.II,
MANNARGUDI, THIRUVARUR DISTRICT.

2 THE SUPERINTENDENT,
DISTRICT PRISON, NAGAPATTINAM

3 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PERUGAVAZHANTHAN POLICE STATION, THIRUVARUR DISTRICT.

5 THE OFFICER INCHARGE, EAST POLICE STATION, TANJAVUR

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

CRL OP.14921/2020

Date :24/09/2020

GKS:25/09/2020