

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.14994 of 2020

Lavanya

... Petitioner

-Vs.-

State Rep. by
Sub Inspector of Police,
K.V.Kuppam Police Station,
Vellore District.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.285 of 2020 on the file of the Respondent.

For Petitioner : Mr.E.Kannadasan

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 10.08.2020 for the offence punishable under Section 174 of Cr.P.C. subsequently altered into Sections 302, 201 of IPC in Crime No.285 of 2020, seeks bail.

2. The case of the prosecution as per the de facto complainant Sivasakthivel is that he got married to the petitioner and during May 2018, the petitioner delivered a female child. Thereafter, there was some quarrel between them due to which, she left him and settled in her parents village and got acquainted with one Praveen Kumar/A1 and married him. While so, on 18.05.2020, the petitioner informed the de facto complainant that their child fell down and admitted in Gudiyatham General Hospital and died. The de facto complainant suspecting that something would have been done to the child, gave a complaint and based on his complaint a case was originally registered for offence under Section 174 Cr.P.C. During the course of investigation, the fact came to light that the petitioner had developed illicit intimacy with one Praveen Kumar/A1 and since the child was hindrance to their affair, the petitioner along with the said Praveen Kumar/A1, committed the murder of the child.

3. The learned counsel for the petitioner would submit that this is second application for bail and the earlier petition for bail was dismissed on 02.09.2020. Since, there was a dispute between the petitioner and her husband / defacto complainant, a false case has been foisted against the petitioner as if, the petitioner murdered

her own daughter out of the illicit intimacy. He would further submit that the petitioner is a married woman and on 18.05.2020, the said Praveen Kumar/A1 had assisted her to take the child to the hospital in a two wheeler and they met with an accident. He would further submit that the said Praveen Kumar was arrested and thereafter enlarged on bail and that the petitioner has been suffering incarceration from 10.08.2020. 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 is the mother of the victim child. The petitioner had developed illicit intimacy with one Praveen Kumar / A1. Since, the child was hindrance to their affair, they committed the murder of the child. She would further submit that the investigation is pending.

5. Taking into consideration the facts and circumstances of the case and the submissions of the learned counsels and the fact that A1 has been enlarged on bail 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 her 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, Katpadi, 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 her release from prison, 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 petitioner 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/-

24/09/2020

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,
KATPADI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 SUB INSPECTOR OF POLICE,
K.V.KUPPAM POLICE STATION,
VELLORE DISTRICT.

4 THE SUPERINTENDENT,
SPECIAL PRISON FOR WOMEN,
VELLORE.

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

CRL OP.14994/2020

Date :24/09/2020

RVR 25/09/2020