

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.10.2020

CORAM :

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

CRL.O.P.No.15780 of 2020

Thavamani

... Petitioner

Vs.

State rep. By
The Inspector of Police,
Kalasapakkam Police Station,
Thiruvannamalai District.
(Crime No.2972 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner/accused on bail in Crime No.2972 of 2020 on the file of the Inspector of Police, Kalasapakkam Police Station.

For Petitioner : Mr.V.Thiyagarajan

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 23.09.2020 for the offences punishable under **Sections 337 and 304(ii) of IPC, in Crime No.2972 of 2020** on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz. Vijay is that his father Palani along with others had gone to the filed of the petitioner viz. Thavamani for digging well. Further allegation is that while they were digging a well, the side walls collapsed, due to which, his father got below the rubbles and died on the way to the hospital. Further allegation is that two other persons along with his father also sustained injuries.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner along with the father of the defacto complainant and two others were digging a well inside his land, and at that time, due

to a land slide, there was a fall of rubbles, due to which, the father of the defacto complainant died and two others sustained injuries. He would further submit that the petitioner had no intention to cause the death of the victim and cause injuries to the other two persons. He would further submit that the petitioner himself had sustained injuries due to the fall of rubbles on him. Further, the Panchayat was conducted in their Village and the petitioner had also assured to pay a sum of Rs.4 Lakhs to the family members of the deceased and a sum of Rs.50,000/- had already been paid as advance to the victims who suffered injuries in the accident.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner is the owner of the small land containing one acre in Sorakolathur village and that he is a small farmer and when they were digging a well without taking any precautions, there was a land slide, due to which, one person died and two others sustained injuries and the petitioner has also sustained injuries due to the landslide. He would further submit that panchayat was conducted in the Village, wherein, the petitioner has agreed to pay a compensation to the family members of the deceased and also to the family members of the other two victims.

5.Heard the learned counsels on either side. Perused the other documents placed on record.

6.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration of the fact that the petitioner has offered to pay a compensation of Rs. 4 Lakhs to the deceased family and other family members of the victims, and that the petitioner was also injured in the accident, 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 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 **Judicial Magistrate at Kalasapakkam, Thiruvannamalai District**, and on further conditions that:

(b) 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;

(c) the petitioner on his release from prison shall report before the respondent police everyday at 10.30 a.m. for a period of one week and thereafter on every Monday and Friday at 10.30 a.m. until further orders.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) 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];

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

12/10/2020

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 AT
KALASAPAKKAM, THIRUVANNAMALAI DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KALASAPAKKAM POLICE STATION,
THIRUVANNAMALAI DISTRICT.

5 THE JAILER,
SUB- JAIL, THIRUVANNAMALAI.

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

CRL OP.15780/2020

Date :12/10/2020