

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 16391 of 2020

G.DHARMALINGAM

... Petitioner

Vs.

The State Rep. by
The Sub Inspector of Police,
Veraiyur Police Station,
Tiruvannamalai District.
(Crime No.2255 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 2255 of 2020, on the file of the respondent police.

For Petitioner : Mr.A.Vijayasankar

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 12.08.2020 for the offences punishable under Sections 294(b), 323 and 302 of IPC in Crime No. 2255 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 due to enmity with regard to disposal of sewage, there was quarrel between the petitioner and the husband of the defacto complainant during which, the petitioner assaulted the husband of the defacto complainant with stone (Karungal) resulting in his death. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. Admittedly, there was a scuffle during which, the victim fell down and sustained injury and immediately he was taken to hospital where he was declared brought dead. Whereas, a false complaint has been given as if, the petitioner assaulted the victim with stone. He would further submit that the petitioner was arrested on 12.08.2020 and he has been suffering incarceration for more than 60 days. Hence, he prays for grant of bail.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that the petitioner and the defacto complainant are neighbours and there was a quarrel between them in respect of disposal of sewage and that on 11.08.2020, during a quarrel, the petitioner kicked the husband of the defacto complainant on his chest and also assaulted him with stone (Krungal) due to which, he sustained injury. Immediately, he was taken to hospital where he was declared brought dead. He would further submit that the investigation is pending.

5. Taking into consideration the facts and submissions made by the learned counsels and considering the period of incarceration suffered by the petitioner from 12.08.2020, 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 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 No.I, Thiruvannamalai. 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 stay at Vellore and report before the Sathuvachari Police Station, everyday at 10.30 a.m. and 5.30 p.m. until further orders. The petitioner shall not enter into the jurisdictional limits of the respondent police 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
15/10/2020

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,
NO.I, TIRUVANNAMALAI.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI [FOR INFORMATION]

3 THE JAILER
CENTRAL JAIL, VELLORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUB INSPECTOR OF POLICE,
VERAIYUR POLICE STATION,
TIRUVANNAMALAI DISTRICT.

6 THE OFFICER INCHARGE
SATHUVACHARI POLICE STATION,
VELLORE.

+1CC to M/S.A.VIJAYASANKAR Advocate on payment of necessary charges SR.No.6947

WEB COPY

CRL OP.16391/2020

Date :15/10/2020

cs 16/10/2020