

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.11.2020

CORAM :

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

CRL.O.P.No.17702 of 2020

K.Ayothi Raman

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Attur Police Station,
Salem, Tamilnadu.
(Crime No. 356 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 356 of 2020, on the file of the respondent police.

For Petitioner : Mr.R.Selvabharathi

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 02.09.2020 for the offences punishable under Sections 294(b), 307 and 506(ii) of IPC and later, altered into one under Section 302 of IPC in Crime No.356 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the de facto complainant is that on 18.08.2020 at about 09.00 p.m., the de facto complainant and his relative one Ilanthendral were returning to his home and while they were coming near Aavin Milk Society, which is situated near Poultry Farm Bus-stop, the petitioner and his associate were lying on the middle of the road in a drunken mood and when the defacto complainant has questioned them, wordy quarrel arose between the parties. Thereafter, the petitioner had gone to the de facto complainant's house at 10.00 p.m., and had abused the de facto complainant with filthy language and when it was questioned by the de facto complainant's father, the petitioner had abused him in filthy language and attacked him with iron rod and when the de facto complainant intervened, the petitioner had attacked him also with iron rod and threatened them with dire consequences. Thereafter, the injured persons have been admitted in the hospital and during the course of the treatment, the de facto complainant's father died. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that this is the second application for bail and the earlier bail application in CrI.OP.No.15953 of 2020 was dismissed by this Court on 08.10.2020. He would submit that originally the case was registered only for the offence under Section 307 of IPC and later, the father of the de facto complainant succumbed to injuries and thereby, the case was altered into one under Section 302 of IPC. He would submit that during the occurrence, the petitioner was also injured and the occurrence had happened only as a defence. He would further submit that the petitioner was arrested on 02.09.2020 and he is in custody for more than 65 days. Hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (CrI.Side) appearing for the respondent would submit that it is a case where the petitioner and his associate were lying on the middle of the road in a drunken mood and when it was questioned by the de facto complainant, the petitioner had gone to the house of the de facto complainant and assaulted the de facto complainant and his father with iron rod, due to which, the de facto complainant and his father have sustained injuries, later the father of the de facto complainant succumbed to the injuries. He would submit that the investigation is pending. Hence, he vehemently opposed to grant bail to the petitioner.

5. Taking into consideration the facts and submissions made by the learned counsels and also the period of incarceration suffered by the petitioner and the petitioner is also stated to have been injured during the occurrence, 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 No-I, Attur, Tamilnadu, 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 Chidambaram and report before the Chidambaram Town Police Station everyday 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.

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

-sd/-

10/11/2020

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, ATTUR, TAMIL NADU

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM(FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
ATTUR POLICE STATION, SALEM,

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

6 THE OFFICER INCHARGE,
SUB JAIL, ATTUR, SALEM DISTRICT.

7 THE OFFICER INCHARGE,
CHIDAMBARAM TOWN POLICE STATION, CHIDAMBARAM.

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

CRL OP.17702/2020

Date :10/11/2020

RVR 11/11/2020

<https://hcservices.ecourts.gov.in/hcservices/>