

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.11.2020

CORAM :

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

CRL.O.P.No.17415 of 2020

A.Dhanasekar

... Petitioner

Vs.

State rep.by its

The Inspector of Police,

Thirunavalur Police Station,

Villupuram District.

(Crime No.560 of 2019)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner relating to Crime No.560 of 2019 on the file of the Inspector of Police, Thirunavalur Police Station, Villupuram District.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 03.09.2020 for the offences punishable under "MAN MISSING" and later altered into Section 302, 109, 294(b) and 201 of IPC, in Crime No.560 of 2019 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz. Govindharaj is that his brother in law Balamurugan, aged about 25 years, found missing. Hence, a case was originally registered on 14.12.2019 under the caption "Man Missing" and later during the course of investigation, it came to light that A1 due to illicit intimacy with A3 / the wife of the deceased had joined with A3 and assaulted the deceased with a brass vessel, due to which, he sustained injuries and died in the house. Thereafter, A1, the paramour of A3 had taken the body with the help of the petitioner / A2 to a secluded place and burnt the body by pouring petrol and thereafter, dissolved the ash in the river. Hence the complaint.

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 it is a case of circumstantial evidence and the petitioner has been roped in this case based on the alleged confession recorded from A1 and A3. He would further submit that the 1st accused stated to be the paramour of A3, the wife of the deceased. Though as per the prosecution, the victim is stated to be missing on 05.07.2019, the complaint has been given only on 14.12.2019, after a lapse of five months. He would further submit that the petitioner is in custody from 03.09.2020 and he is prepared to abide by any stringent conditions that may be imposed by this Court.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that it is a case of gruesome murder. The petitioner is a friend of A1 and he along with A1 & A3 had committed the murder of the husband of the 3rd accused. Thereafter, they had taken the body and burnt the body and thereafter dissolved the ash to screen the evidence. He would further submit that the petitioner was arrested and he has confessed about the occurrence.

5.Heard the learned Counsel on either side. Perused the materials placed on record.

6.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration of 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 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-II, Ulundurpet, 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 Madurai and report before the Vilakuthoon 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
06/11/2020

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.II,
ULUNDURPET.

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM [FOR INFORMATION]

3 THE JAILER,
SUB-JAIL, THIRUKOVILUR.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
THIRUNAVAILUR POLICE STATION,
VILLUPPURAM DIST.

6 THE OFFICER INCHARGE,
VILAKUTHOON POLICE STATION,
MADURAI

+1CC to M/S.S.NEDUNCHEZHIAN Advocate on payment of
necessary charges SR NO.7340

CRL OP.17415/2020

Date :06/11/2020

MK:09/11/2020



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