

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.16716 of 2020

B.Balasubramanian

... Petitioner

Vs.

The State rep by

Rep by its Station House Officer,

Nettapakkam Police Station,

Puducherry District.

(Crime No.142 of 2020)

.... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to grant bail to the petitioner/Accused in Crime No.142 of 2020 on the file of the respondent.

For Petitioner : Mr.A.M.Esakkiappan

For Respondent : Mr.Barathachakravathy
Public Prosecutor, Puducherry

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 26.08.2020 for the offences punishable under Sections 323, 324 of IPC, subsequently the case was altered Section 302 of IPC in Crime No.142 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant Azhagamma, is that the defacto complainant is the daughter of the deceased and the petitioner is the son of the deceased. The petitioner who is the elder brother of the decato complainant, had arranged her marriage and the deceased / their father was against the marriage. Thereby, there was a quarrel between the petitioner and his father due to which, there was a scuffle on 24.08.2020. Thereafter, the father of the petitioner had once again quarrelled and there was a scuffle during which, the petitioner had assaulted his father and pushed him due to which, he fell down and sustained injury after hitting on a stone. Later, he was taken to hospital on 26.08.2020. Initially, the case was registered for offence under Sections 323 and 324 IPC and subsequently, the victim died on 30.08.2020 without

responding to the treatment. Therefore, the case was altered to one under Section 302 IPC on 31.08.2020. Hence the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is the son of the deceased and the defacto complainant is the daughter of the deceased. He would submit that the deceased / the father of the petitioner was leading a wayward life and he did not arrange for the marriage of his daughter. Therefore, the petitioner as a responsible elder brother, had arranged the marriage of his sister. Since, it was not liked by the deceased / his father, there used to be a frequent quarrel and unfortunately on 26.08.2020, during a quarrel, the petitioner pushed his father due to which, he fell down and sustained injury on the head and died after few days without responding to the treatment. He would further submit that the incident had occurred during a quarrel and there was no intention or motive for the petitioner to commit the murder of his father. He would further submit that the petitioner surrendered before the respondent police on 31.08.2020 pursuant to which, he was taken to hospital and on finding that he was Covid positive, he was kept under quarantine and after quarantine, the petitioner was remanded to judicial custody on 22.09.2020. Hence, he prays for grant of bail.

4.The learned Public Prosecutor (Puducherry) appearing for the respondent would vehemently oppose stating that it is a case of patricide. The petitioner is the son of the deceased. During a quarrel, the petitioner assaulted and pushed the deceased, due to which, he fell down and sustained injuries. Originally the case was registered for offence under Sections 323 and 324 IPC. Later, the victim succumbed to injuries and thereby, the case was altered to one under Section 302 of IPC after four days. He would further submit that the investigation is pending.

5. Taking into consideration of the facts and circumstances of the case and submissions made by the learned counsels 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 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-I, Puducherry, 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 shall report before the respondent police daily 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/-

02/11/2020

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, PUDUCHERRY.

2 THE CHIEF JUDICIAL MAGISTRATE
PUDUCHERRY [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, KALAPET.

4 THE PUBLIC PROSECUTOR
PUDUCHERRY.

5 THE STATION HOUSE OFFICER,
NETTAPAKKAM POLICE STATION,
PUDUCHERRY DISTRICT.

+1 CC to M/S.A.M.ESAKKIAPPAN Advocate on payment of necessary charges SR.No.7168

CRL OP.16716/2020

Date :02/11/2020