

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.11.2020

CORAM :

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

CRL.O.P.No.17112 of 2020

A.Shalmanhan

... Petitioner

Vs.

State represented by
The Inspector of Police,
Tiruppur South Police Station,
Tiruppur City.
(Crime No.1383 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.1383 of 2020 on the file of the respondent.

For Petitioner : Mr.J.Franklin

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

ORDER

(The cases have 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 302 of IPC, in Crime No.1383 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz. Gowri is that she had married one Karthickraja, which is a love marriage. On 01.09.2020, her husband had come home with injury on his head, when the same was enquired, he had stated that one Azaguraja, Sakthivel and Salmankhan, the petitioner herein, who are the friends of the victim assaulted him and his friends viz. Sabari, Karthick and one Jayaraman, due to which he sustained injuries and later on 02.09.2020 the husband of the defacto complainant succumbed to injuries. 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 on the earlier day there was a funeral procession of one Sasi, who is the

friend of the victim, at that time, there was a quarrel between the petitioner and the victim, due to which, the petitioner's name has been falsely implicated in this case. He would further submit that the petitioner was arrested on 02.09.2020 and he is in judicial custody for one month.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner and the deceased are the friends and that during the funeral procession, there was a quarrel and at that time, the petitioner in an inebriated condition along with his friends assaulted the victim with coconut reaper on the head, due to which, the victim succumbed to injuries and died. He would further submit that investigation is pending.

5.Heard the learned Counsel on either side. Perused F.I.R. and other materials placed on record.

6.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration 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-II, Tiruppur** 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 Tiruvannamalai and report before the Tiruvannamalai Town Police Station everyday at 10.30 a.m. for a period of three weeks and thereafter report before the respondent police 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/-

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.II, TIRUPPUR.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
TIRUPPUR SOUTH POLICE STATION,
TIRUPPUR CITY.

5 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

6 THE OFFICER INCHARGE,
TIRUVANNAMALAI TOWN POLICE STATION,
TIRUVANNAMALAI.

+1 CC to M/S. J.FRANKLIN Advocate on payment of necessary charges SR.NO.7150

CRL OP.17112/2020

Date :02/11/2020

TA-03/11/2020