

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.11.2020

CORAM :

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

CRL.O.P.No.17146 of 2020

Ashwin @ Ashwinkumar

... Petitioner

Vs.

State rep. by

The Inspector of Police (law & Order)

J-4, Kotturpuram Police Station,

Chennai-600 085.

(Crime No.988 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with Crime No.988 of 2020 on the file of the respondent.

For Petitioner : Mr.N.Moorthi

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 29.09.2020 for the offences punishable under Sections 174 Cr.P.C (Suspicious Death) @ 302 IPC @ 147, 120(b), 302 IPC in Crime No.988 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant is that on 08.09.2020 at about 10.15 p.m. he was informed that his son had been assaulted by the accused persons. When he rushed to the spot, he found his son lying on the floor. Since, the victim was also found in an inebriated state, the defacto complainant had taken him to his house with the help of his friends where he had vomited once in the night. Thereafter, in the morning, the victim did not wake up from his sleep and when the doctor was called to give medical aid, the defacto complainant was informed that his son had already died. Later, on information from his friends, he came to know that during a quarrel, the accused have pushed the deceased and assaulted him due to which, he fell down and sustained injuries and that while he was lying, the accused have also trampled and kicked him on his stomach and chest. Originally, the case was registered for offence under Section 174 Cr.P.C. and later it was altered into Section 302 IPC.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. He would further submit that the name of the petitioner does not find place in the FIR and he has been falsely implicated in this case since he happens to be the friend of the main accused. He would further submit that the petitioner has completed B.E Degree and he has been preparing for UPSC Examination. He would further submit that the CCTV footages in and around the area, would show that the petitioner is not involved in this case. He would submit that the co-accused in this case have been granted bail in Crl.O.P.No.16832 of 2020 on 28.10.2020. Hence, he prays for grant of bail to the petitioner.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that due to previous enmity, the petitioner along with other accused pushed the deceased due to which he fell down and sustained injury on his head and when he was lying down, the accused have trampled on his stomach and chest due to which the victim died. He would further submit that the investigation has been completed and the charge sheet has been filed and the same has been taken on file in P.R.C.No.47 of 2020 on the file of the IX Metropolitan Magistrate, Saidapet.

5. Taking into consideration the above facts and circumstances of the case and the submissions made by the learned Counsels and the fact that the investigation has been completed and final report has been filed and that the co-accused in this case has been granted bail by this Court and also considering the period of incarceration suffered by the petitioner from 29.09.2020, 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 separate 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 IX Metropolitan Magistrate, Saidapet, Chennai-15, 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 report before the IX Metropolitan Magistrate, Saidapet, Chennai-15, 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/-
03/11/2020

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 METROPOLITAN MAGISTRATE
NO.IX, SAIDAPET, CHENNAI-15.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE (LAW AND ORDER),
J-4, KOTTURPURAM POLICE STATION,
CHENNAI-600 085.

+1 CC to M/S. N.MOORTHY Advocate on payment of necessary charges
SR.No.7204

CRL OP.17146/2020

Date :03/11/2020