

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.11.2020

CORAM :

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

CRL.O.P.No.18104 of 2020

Malathi

... Petitioner/9th Accused

Vs.

State Rep. By

The Inspector of Police,
H-3, Tondiarpet Police Station,
Chennai. (Crime No.4295/2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to grant bail to the petitioner in Crime No. 4295 of 2020, on the file of the respondent police.

For Petitioner : Mr.P.Vignesh

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 16.08.2020 for the offences punishable under Sections 147, 148, 341, 307, 302, 506(ii), 120(b) of IPC in Crime No. 4295 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz., Priya is that the first accused mother and her associates were selling liquor in their area, hence, the police has registered case against them. The accused suspected that the husband of the defacto complainant would have informed about their illegal activities to the police and they had conspired to kill him and on 15.08.2020 when the defacto complainant and her husband were at their home, the accused had gone to their home with deadly weapons and indiscriminately assaulted the husband of the defacto complainant, due to which, he died at the scene of occurrence. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that this is the second bail application and the earlier application was dismissed by this Court vide order dated 24.09.2020 in Crl.O.P.No.14970 of 2020. He would further submit that the name of the petitioner does not find place in the F.I.R. and that since some of her relatives conducted an agitation near the police station, the petitioner was taken to the police custody and later she was remanded to the judicial custody. He would further submit that the allegation against the petitioner is that she has instigated the

other accused to commit the murder. He would further submit that the investigation has been completed and a final report has been filed and taken up in P.R.C.No.26 of 2020 before the learned XV Metropolitan Magistrate, George Town, Chennai. He would further submit that the husband of the petitioner and the other accused are detained under Act 14 and in some of the cases, A7, A8 & A9, against whom there are specific overt act have been granted bail by the learned Principal Sessions Judge, Chennai. He would further submit that the petitioner is prepared to abide by any stringent conditions that may be imposed on her.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner had instigated the other accused to commit the murder of the victim. He would further submit that the investigation has been completed and final report has been filed and taken up in PRCNo.26 of 2020 before the XV Metropolitan Magistrate Court, Chennai. He would further submit that the petitioner is having life threat and hence opposed for the grant of bail.

5.Heard the learned counsels 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, considering the submission that the petitioner is stated to have instigated the other accused and also considering the fact that the other accused who have specific overt act have been granted bail by the Lower Court, 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 XV Metropolitan Magistrate, George Town, Chennai 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 her release from prison, shall stay at Vellore and report before the Sathvachari Police Station everyday at 10.30 a.m., until further orders. The petitioner shall not enter into the jurisdictional limits of the respondent police.

(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;

(h) 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];

(i) if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
18/11/2020

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 XV METROPOLITAN MAGISTRATE,
GEORGE TOWN, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
H-3, TONDIARPET POLICE STATION,
CHENNAI

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI

6 THE OFFICER INCHARGE,
SATHVACHARI POLICE STATION,
VELLORE

CC to M/S. P.VIGNESH Advocate on payment of necessary charges

CRL OP.18104/2020

Date :18/11/2020

RVR 19/11/2020