

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.17499 of 2020

Ayyamperumal

... Petitioner

Vs.

The State represented by
The Inspector of Police,
Gangavalli Police Station,
Salem District.
(Crime No.455 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.455 of 2020, on the file of the Gangavalli Police Station, Salem District.

For Petitioner : Mr.T.Ganesan

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 11.09.2020 for the offences punishable under Sections 294 (b), 324, 506(ii) of IPC and @ into 294(b), 324, 506(ii) and 307 and 379 of IPC and again altered into 294(b) and 302 of IPC, in Crime No.455 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that due to previous enmity regarding illicit intimacy between the husband of the defacto complainant and the wife of the petitioner, on 11.09.2020 at about 5.30 a.m. the petitioner abused the husband of the defacto complainant in filthy language and assaulted him with the handle of the spade, causing injuries to him and also threatened him with dire consequences. Thereafter, the victim was admitted in the hospital and during the course of the treatment, he succumbed to the injuries. Originally, a case was registered for the offences under Sections 294 (b), 324, 506(ii) of IPC, thereafter it was @ into 294(b), 324, 506 (ii) and 307 and 379 of IPC and the same was altered once again into 294(b) and 302 of IPC.

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 since the petitioner suspected that the husband of the defacto complainant had illicit intimacy with his wife, he questioned the deceased, there was a quarrel, during which. the deceased attempted to assault the petitioner and the incident had happened during the quarrel. He would further submit that there was no intention to commit the murder of the victim. He would further submit that the deceased was admitted in the hospital on 11.09.2020 and died only on 14.09.2020 due to some other disease, whereas a false complainant has been given against the petitioner as if he is responsible for the death. He would further submit that the petitioner was arrested on 11.09.2020 and he is in custody for more than 56 days.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner suspected that the husband of the defacto complainant had illicit intimacy with the wife of the petitioner, due to which, he assaulted the deceased with the handle of the spade, thereby, he succumbed to injuries after four days in the hospital. He would further submit that the investigation is pending.

5.Heard the learned Counsel on either side. Perused the F.I.R. and also the other 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, Attur, 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 Dharmapuri and report before the Dharmapuri Town 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;

(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, ATTUR

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM(FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
GANGAVALLI POICE STATION,
SALEM DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

6 THE OFFICER INCHARGE,
DHARMAPURI TOWN POLICE STATION,
DHARMAPURI

CC to M/S T.GANESAN Advocate on payment of necessary charges

CRL OP.17499/2020

Date :06/11/2020

RVR 09/11/2020

<https://hcservices.ecourts.gov.in/hcservices/>