

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.11.2020

CORAM :

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

CRL.O.P.No.17795 of 2020

Selvaganesh

... Petitioner

Vs.

State Rep by:-

The Inspector of Police,
Sathuvacheri Police Station,
Vellore District.

(Crime No.132 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.132 of 2020, on the file of the Inspector of Police, Sathuvacheri Police Station, Vellore District, pending investigation.

For Petitioner : Mr.G.Vinodh Kumar

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 01.09.2020 for the offences punishable under Sections 147, 294(b), 323, 506(i) and 302 of IPC in Crime No.132 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the de facto complainant Nirmala is that she married the petitioner Selvaganesh 20 years back and they have got two children. While so, the petitioner used to quarrel with her frequently and assault her, due to which, she used to inform her brother Nandagopal and he used to interfere and solve the problems. While so, on 10.03.2020, there was a quarrel between the petitioner and the de facto complainant and the petitioner had assaulted her as usual, she informed the same to her brother. The de facto complainant's brother along with his relatives came to the house of the de facto complainant to solve the problem. At that time, the petitioner along with his relatives assaulted the brother of the de facto complainant Nandagopal and pushed him, due to which, he sustained injuries and thereafter, he was taken to the hospital, where he was brought declared dead.

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 submit that the petitioner is the husband of the de facto complainant and that even as per the FIR, the incident had

happened during a domestic quarrel between the de facto complainant's brother and the petitioner. He would submit that there was no intention or motive to commit the murder of the deceased. He would submit that the de facto complainant is none other than the wife of the petitioner and the other accused are relatives of the petitioner. He would submit that the incident had happened on 10.03.2020 and some of the accused have been arrested and the petitioner surrendered before the learned Judicial Magistrate, Sholingar on 01.09.2020.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose the grant of bail stating that the de facto complainant is the wife of the petitioner. He would submit that the petitioner, during domestic quarrel, along with his relatives assaulted the brother of the de facto complainant/brother-in-law of the petitioner and pushed him, due to which, he sustained head injuries and died. He would submit that the petitioner was surrendered before the learned Judicial Magistrate, Sholingar on 01.09.2020 and that two other accused are still absconding.

5. Heard the learned counsels on both sides. Perused the entire materials available on record.

6. Taking into consideration the facts and submissions made by the learned counsels and also 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.V, Vellore 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 Villupuram and report before the Villupuram Town Police Station 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.

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

-sd/-

10/11/2020

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.V, VELLORE

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
SATHUVACHERI, VELLORE DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

6 THE OFFICER INCHARGE,
VILLUPURAM TOWN POLICE STATION,
VILLUPURAM

CC to M/S G.VINODH KUMAR Advocate on payment of necessary charges Sr.7511

CRL OP.17795/2020

Date :10/11/2020

RVR 11/11/2020