

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.17807 of 2020

Sivakumar

... Petitioner

Vs.

State Rep by:-

The Inspector of Police,
Sathanur Dam Police Station,
Thiruvannamalai District.
(Crime No.1774 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.1774 of 2020 on the file of the Inspector of Police, Sathanur Dam Police Station, Thiruvannamalai District.

For Petitioner : Mr.A.Sathishkumar

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 16.08.2020 for the offences punishable under Sections 341, 294(b) and 307 of IPC later altered to Section 341, 294(b) and 302 of IPC in Crime No.1774 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the de facto complainant Ambika is that due to pathway dispute, on 15.08.2020, the petitioner poured Kerosene on the husband of the defacto and set him ablaze. Thereby, he sustained burn injuries and he was admitted in the hospital. Thereafter, on the next day i.e. 16.08.2020, the victim died. Initially, the case was registered for offence under Sections 341, 294(b) and 307 of IPC and later altered in to Sections 341, 294(b) and 302 of IPC.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. Even as per the complaint, there was a previous enmity between the family of the petitioner and the family of the defacto complainant. While so, on 15.08.2020, the husband of the defacto complainant attempted to commit suicide by self immolation. Whereas, a false case has been foisted against the petitioner as if, he poured Kerosene on the husband of the defacto complainant and set him ablaze due to which, he died. He would further submit that the petitioner was arrested on 16.08.2020 and he has been suffering incarceration for more than 85 days. Hence, he seeks for grant of bail.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that the petitioner who is the neighbor of the deceased, due to previous enmity in respect of pathway dispute, poured kerosene on the husband of the defacto complainant and set him ablaze due to which, he sustained burn injuries and died on the next day.

5. Taking into consideration the facts and submissions made by the learned counsels and also considering 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, Chengam, 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 Krishnagiri and report before the Town Police Station everyday at 10.30 a.m and 5.30.p.m until further orders. The petitioner shall not enter into the jurisdictional limits of the respondent police 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/-

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,
CHENGAM.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
SATHANUR DAM POLICE STATION,
THIRUVANNAMALAI DISTRICT.

6 THE OFFICER INCHARGE
TOWN POLICE STATION,
KRISHNAGIRI.

+1 CC to M/S A.SATHISHKUMAR Advocate on payment of necessary charges SR.No.7506

CRL OP.17807/2020

Date :10/11/2020