

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.12.2020

CORAM :

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

CRL.O.P.No.18766 of 2020

Vairavel

... Petitioner/2nd Accused

Vs.

State Rep by Inspector of Police,
Thiruchengode Town Police Station,
Namakkal District.
(Crime No.1341 of 2020)

... Respondent /Complainant

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with the Crime No.1341 of 2020 on the file of the respondent police.

For Petitioner : Mr.R.Nalliyappan

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

ORDER

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 23.08.2020 for the offence punishable under Section 174 Cr.P.C. and 306 IPC @ into Sections 306, 354 (A) (1) (ii) of IPC and 4 of Tamilnadu Prohibition Charging Exorbitant Interest Act, in Crime No.1341 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant Mani is that his daughter Menaga was married to one Subramani and they have got two children and that due to family situation, they had borrowed money from several persons. Thereafter, due to Covid, they were unable to repay the amount and thereby, the persons who had given loans, have harassed them due to which, her daughter and son-in-law along with their family attempted to commit suicide. Unfortunately, his daughter Menaga and son-in-law Subramani died and their children were saved. During the course of investigation, it came to light that the accused have harassed the victims and also have given sex torture to the daughter of the defacto complainant due to which, they have committed suicide.

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. He would further submit that this is a second application for bail and the earlier application was dismissed by this Court on 28.10.2020 vide Crl.O.P.No.16692 of 2020. He would submit in fact, the victims had borrowed money from the petitioner as

well as from several other persons whereas, the petitioner has been falsely implicated in this case. He would further submit that the petitioner was arrested on 23.08.2020 and he has been suffering incarceration for more than 100 days and that no charge sheet is filed so far. Hence, he prays for grant of bail.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner who is arrayed as A2 in this case along with A1/Iyyasamy had given loan to the daughter and son-in-law of the defacto complainant. Thereafter, due to Covid, they were unable to repay the amount and thereby, the accused have harassed and given sex torture to the daughter of the defacto complainant. Unable to bear the torture, the daughter and son-in-law of the defacto complainant along with their family attempted to commit suicide. Unfortunately, the daughter and son-in-law of the defacto complainant died and the children were saved. He would further submit that the deceased Menaga has also left a suicide note specifically implicating the petitioner alleging that he had given sex torture to her for non payment of loan.

5.Taking into consideration the facts and circumstances of the case and the fact that the petitioner has been in judicial custody for more than 100 days and so far no charge sheet is filed, 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 Judicial Magistrate, Thiruchendgode, 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 shall report before the respondent police 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

(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/-

07/12/2020

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,
THIRUCHENGODE

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THIRUCHENGODE TOWN POLICE STATION,
NAMAKKAL DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

CC to M/S.R.NALLIYAPPAN Advocate on payment of necessary charges

CRL OP.18766/2020

Date : 07/12/2020

RVR 08/12/2020