

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.11.2020

CORAM :

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

CRL.O.P.No.18200 of 2020

Yasmin @ Vishnupriya

... Petitioner

Vs.

State by
The Inspector of Police,
Villupuram West Police Station,
Villupuram District.
(Crime No.1805 of 2020)

.... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail pending investigation in connection with Crime No.1805 of 2020 on the file of the respondent police.

For Petitioner : Mr.V.R.Appaswamee

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 07.10.2020 for the offences punishable **under Section 174 of Cr.P.C., altered into 302 & 201 of IPC, in Crime No.1805 of 2020** on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant Sathik Basha is that his 3 months old female child was not feeling well and when they had taken her to hospital, they were informed that the child was brought dead. Based on the information given by the defacto complainant, initially the case was registered for the offence under Section 174 Cr.P.C. and later during the course of investigation, it came to light that the petitioner, who is the wife of the informant had committed the murder of her own child by giving poison since, she was unable to bring up the child due to poverty.

3.The learned counsel appearing for the petitioner would submit that the petitioner's child fell ill and when they had taken the child to the hospital, it was declared as brought dead. He would submit that if the petitioner had an intention of killing her own child, she or her husband would not have taken the child to the hospital. Whereas, due to some enmity, the petitioner has been falsely implicated in this case. Even as per the prosecution, the allegation against the petitioner is that she had killed her child due to poverty. He would further submit that the investigation is over and the petitioner has been suffering incarceration from 07.10.2020. Hence, he prays for grant of bail to the petitioner.

4.The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioner earlier had two children and thereafter, third child was born and due to poverty, the petitioner given poison to the child. Thereby, the child died. He would further submit that the investigation is completed and final report has been filed before the Judicial Magistrate-I, Villupuram, and it is yet to be taken on file.

5.Taking into consideration of the facts and circumstances 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 **learned Judicial Magistrate, Gingee**, 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 report before the Judicial Magistrate-I, Villupuram, everyday at 10.30 a.m. for a period of one month and thereafter on the first working day of every month 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

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/-
19/11/2020

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,
GINGEE.

2 THE JUDICIAL MAGISTRATE,
NO.I, VILLUPURAM.

3 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM. [FOR INFORMATION]

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
VILLUPURAM WEST POLICE STATION,
VILLUPURAM DISTRICT.

6 THE SUPERINTENDENT
SPECIAL PRISON FOR WOMEN,
CENTRAL PRISON, CUDDALORE.

+1 CC to MR.V.R.APPASWAMEE Advocate on payment of necessary charges SR.NO.7643

CRL OP.18200/2020

Date :19/11/2020

TA-20/11/2020