

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.12.2020

CORAM :

THE HON'BLE Mr.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.18882 of 2020

Denny @ Dharani

... Petitioner

-Vs.-

State, rep. by

The Inspector of Police,

Thiruvallur Taluk Police Station,

Thiruvallur District.

(Crime No.1709 of 2020)

.... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail pending investigation in Crime No.1709 of 2020 on the file of the respondent police.

For Petitioner : Mr.R.Sasikumar

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 20.10.2020 for the offences punishable under Sections 147, 148, 294(b), 323, 324, 506(ii) of IPC read with Section 4 of Women Harassment Act alter in to offences Under Section 147, 148, 294(b), 323, 324, 506(ii) IPC read with Section 4 of Women Harassment Act and Sections 430, 379 IPC read with Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957 in Crime No.1709 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant is that the petitioner along with some others, have transported sand illegally and when the same was questioned by the defacto complainant, there was a wordy quarrel between them. During which, the petitioner along with others have assaulted the defacto complainant and two others and caused head injuries to them. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has not committed any

offence as alleged by the prosecution. He would further submit that the co-accused in this case has been granted bail by the lower Court by order dated 11.11.2020 in CrI.M.P.No.2350 of 2020 and the petitioner was arrested on 20.10.2020 and that he has been suffering incarceration for more than 40 days. Hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (CrI. Side) appearing for the respondent would vehemently oppose stating that the petitioner had involved in sand theft by using his bullock cart. When the same was questioned by the defacto complainant, there was wordy quarrel between them following which, the petitioner along with other accused, have assaulted the defacto complainant and two others resulting them sustaining head injury. He would further submit that there are two previous cases pending against the petitioner.

5. Taking into consideration the facts and circumstances of the case and the 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 No.I, Thiruvallur, 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., for a period of two weeks and thereafter, every Monday 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.

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

-sd/-
03/12/2020

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 NO.I,
THIRUVALLUR

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR DISTRICT [FOR INFORMATION]

3 THE JAILER, SUB JAIL, THIRUTANI

4 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
THIRUVALLUR TALUK POLICE STATION,
THIRUVALLUR DISTRICT.

+1 CC to M/S.R.SASIKUMAR Advocate on payment of necessary charges SR.NO.7902

CRL OP.18882/2020

Date :03/12/2020

GKS:07/12/2020