

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.12.2020

CORAM :

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

CRL.O.P.No.19076 of 2020

Sivakami

... Petitioner

Vs.

The State Rep. by
Inspector of Police,
Vettavalam Police Station,
Thiruvannamalai District.
(Crime No.2583 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.2583 of 2020 on the file of the respondent police.

For Petitioner : Mr.B.Sundarpandiyan

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 01.11.2020 for the offence punishable under Section 294(b), 324 and 307 of IPC, in Crime No.2583 of 2020, on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant Govindan is that he is a driver by profession. 15 years back, he got married to the petitioner Sivakami and they have got a female child namely Revathy and that due to misunderstanding, they were living separately. While so, on 29.10.2020, the defacto complainant had gone to see her daughter. At that time, he had seen the petitioner/accused and one Selvan in a compromising position and when the defacto complainant had questioned them, the second accused/Selvan on the instigation of the petitioner, assaulted the defacto complainant with wooden log due to which, he sustained injury on head and right leg and thereby, his right leg got fractured.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and she has been falsely implicated in this case. He would submit that the defacto complainant had deserted the petitioner and her daughter and thereby, they were living separately. On the date of occurrence, the defacto complainant came to the petitioner's house, abused and assaulted her. When it was questioned by one Selvan, the neighbour of the petitioner, the defacto complainant attacked him due to which, he

sustained injuries. Whereas, the defacto complainant conveniently given a false complaint as if, he had seen them in a compromising position. Even as per F.I.R., the allegation is the second accused is stated to have assaulted the defacto complainant with wooden log. He would further submit that the injured has been discharged from the hospital and the petitioner being a lady has been suffering incarceration from 01.11.2020 and that there is no previous case against the petitioner. Hence, he prays for grant of bail.

4. The learned Government Advocate (Criminal Side) would vehemently oppose stating that the petitioner is the wife of the defacto complainant and they got married 15 years back and thereafter, they got separated. While so, the petitioner got illicit intimacy with one Selvan. When it was questioned, they assaulted the defacto complainant with wooden log due to which, he sustained injury and also sustained fracture in his right leg. He would further submit that the injured has been discharged from the hospital.

5. Heard the learned Counsels and perused the materials placed on record.

6. Taking into consideration of the facts and circumstances of the case and the submissions made by the learned counsels and also taking into consideration 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.II, Thiruvannamalai, 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 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 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/-

18/12/2020

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.II, TIRUVANNAMALAI

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
VETTAVALAM POLICE STATION,
TIRUVANNAMALAI DISTRICT.

5 THE SUPERINTENDENT,
WOMEN PRISON, VELLORE.

CC to M/S.B.SUNDARPANDIYAN
charges Sr.8460

Advocate on payment of necessary

CRL OP.19076/2020

Date :18/12/2020

RVR 21/12/2020