



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.12.2020

CORAM :

WEB COPY

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

CRL.O.P.No.19133 of 2020

Sudha

... Petitioner/Accused-5

-Vs

State Rep by
Inspector of Police,
Valathi Police Station,
Villupuram District.
(Crime No.1144 of 2020)

..Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 439 of CrI.P.C, to enlarge the petitioner on bail pending investigation in Crime No.1144 of 2020 on the file of the respondent police.

For Petitioner : Mr.K.Sudhakar

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 01.11.2020 for the offence punishable under Sections 147, 148, 294(b), 324, 506(ii) and 302 IPC in Crime No.1144 of 2020, seeks bail.

2. The case of the prosecution as per the defacto complainant Gayathiri is that there was a previous enmity between the family of the defacto complainant and the family of the accused on account of sharing of property belonging to their father. While so, on 23.08.2020 at 20:00 hours, there was a quarrel between the family of the defacto complainant and the family of the accused. During such quarrel, the accused assaulted the defacto complainant and her family members with cricket stump, knife, wooden log and spear due to which, the defacto complainant and her relatives sustained serious injuries and that the husband of the defacto complainant namely Kalaiselvan died at the spot.

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 due to enmity on account of sharing of property. Infact, the husband of the petitioner and the deceased are brothers. However, since, the husband of the petitioner was born to the first wife and the deceased was borne to the second wife of their father, there was some dispute between them with regard to sharing of property and the deceased is the aggressor who had actually



attacked the petitioner and his family members and caused injuries to them. In fact, during the attack, a finger of the petitioner's son Surya Prakash, got amputated and it is a case of retaliation for self protection. He would further submit that the petitioner's husband and son were arrested and they were also enlarged on bail by this Court vide Crl.O.P.Nos.16550 and 15732 of 2020 by orders dated 16.10.2020 and 07.10.2020 and that the petitioner has been suffering incarceration from 01.11.2020. Hence, he prays for grant of bail.

4.The learned Government Advocate (Crl. Side) appearing for the respondent police would vehemently oppose stating that the petitioner is the wife of the main accused. The husband of the petitioner and the deceased are brothers through different wives of their father and there was some dispute between them with regard to sharing property. While so, on 23.08.2020, at about 8 p.m, there was a quarrel between both the families during which, the deceased Kalaiselvan/the husband of the defacto complainant sustained injury and died on the place of occurrence. He would further submit that the investigation is pending and he fairly conceded that some of the co-accused have been granted bail by this Court.

5. Taking into consideration, the facts and circumstances of the case and the fact that the co-accused have been enlarged on bail by this Court 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, Senchi, and on further conditions that:

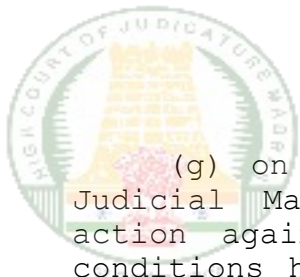
(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioner shall stay at Chennai and report before the S-1 Pallavaram Police Station, everyday at 10.30 a.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.

-sd/-

08/12/2020

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,
SENCHE

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
VALATHI POLICE STATION,
VILLUPURAM DISTRICT.

5 THE OFFICER INCHARGE
WOMEN SUB JAIL, CUDDALORE.

6 THE OFFICER INCHARGE,
S-1 PALLAVARAM POLICE STATION,
CHENNAI

CC to M/S.K.SUDHAKAR Advocate on payment of necessary charges
Sr.7986

CRL OP.19133/2020

Date :08/12/2020

RVR 09/12/2020