

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.12.2020

CORAM :

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

CRL.O.P.No.19082 of 2020

Perumal

.. Petitioner

Vs.

State represented by

The Sub Inspector of Police,
Maraimalai Nagar Police Station,
Chengalpattu District.

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail concerned in Crime No.4388 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.P.Kumaresan

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 12.10.2020 for the offences punishable under Sections 109, 120(b), 147, 148, 341, 302 IPC 109 read with Section 149 of IPC in Crime No.4388 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the de facto complainant Elangovan is that there was a financial dispute between his father and the accused. While so on 11.10.2020 at about 01.30 p.m., the accused threatened the father of the defacto complainant for non payment of the debt and for refusal of construction the compound wall for his house and left the place. On the same the, the father of the defacto complainant received a phone call from the mother of the defacto complainant stating that the petitioner was taking the power driller machine in his tractor. Immediately, the father of the defacto complainant rushed to the spot and the defato complainant also followed him. After reaching the spot, the father of the defacto complainant argued with the petitioner. At that time, the petitioner dashed the father of the defacto complainant by his tractor and thereafter ran over the tractor on him and committed the murder. Further, the accused threatened the defacto complainant stating that the same thing will happento him.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this. Admittedly, there was a financial dispute between the petitioner and the father of the defacto complainant and on the date of occurrence, the petitioner attempted to take the power driller from the house of the defacto complainant. At that time the father of the defacto complainant attempted to prevent the petitioner and tried to climb on the tractor from the rear side through the reae wheel cup. Accidently, he fell down and died. On coming to know the death of the defacto complainant's father, the petitioner surrendered on the same day and he was remanded to judicial custody on the same day. He would further submit that there is no intention on the part of the petitioner to commit the murder of the deceased and it had happened accidently. Hence, he prays for grant of bail.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that due to financial dispute, the petitioner attempted to take the power driller of the defacto complainant and thereby, the father of the defacto complainant rushed to the spot. At that time, the petitioner willfully ran over the defacto complainant's father with tractor and caused his death.

5. At this juncture, the learned Counsel for the petitioner would submit that the petitioner had himself surrendered before the respondent police and the F.I.R. was brought to the Court only at the time of remand.

6. Heard the learned Counsels and perused the F.I.R.

7. Taking into consideration the facts and submissions made by the learned counsels and 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-II, Chengalpattu, 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 his release from prison shall stay at Madurai and report before the Thallakulam 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.

8. With the above directions, this Criminal Original Petition stands ordered.

-sd/-

11/12/2020

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, CHENGALPATTU

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE
MARAIMALAI NAGAR POLICE STATION,
CHENGALPATTU DISTRICT

5 THE OFFICER INCHARGE,
THALLAKULAM POLICE STATION, MADURAI

CC to M/S.P.KUMARESAN Advocate on payment of necessary charges

CRL OP.19082/2020

Date : 11/12/2020

RVR 14/12/2020