

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.12.2020

CORAM :

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

CRL.O.P.No.19315 of 2020

Bakiyaraj

... Petitioner

-Vs

The State Rep By
The Inspector of Police,
Thachampattu Police Station
Thachampattu
Tiruvannamalai District
Crime No. 1958 of 2020

... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of CrI.P.C, to enlarge the petitioner on bail pending investigation in Crime No. 1958 of 2020 on the file of the respondent police.

For Petitioner : Mr.B.Jawajar

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

ORDER

(The cases have been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 29.10.2020 for the offence punishable under Section 302 IPC in Crime No.1958 of 2020, seeks bail.

2. The case of the prosecution as per the defacto complainant Kumar is that on 28.10.2020, due to a quarrel on account of property dispute, the petitioner had assaulted the defacto complainant's uncle Elumalai with hands and fisted on his face and also stamped on his chest due to which, he died.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case since, the petitioner had purchased a property from the son of the deceased and was in possession of the said property. He would submit that even as per the F.I.R., no weapon is stated to have been used in the offence and the petitioner is alleged to have fisted on the face of the victim with hands and stamped on his chest and when the victim was taken to the hospital,

he was declared as brought dead. Even as per the post-mortem certificate, there is no external injuries found on the body of the deceased. He would submit that the petitioner has been suffering incarceration from 29.10.2020. Hence, he prays for grant of bail.

4.The learned Government Advocate (Crl. Side) appearing for the respondent police would vehemently oppose stating that due to property dispute, the petitioner assaulted the deceased with hands and when he fell down, he stamped on his chest due to which, he sustained injury and when he was taken to hospital, it was declared as brought dead.`

5. Heard the learned Counsels on both sides and perused the F.I.R.

6. Taking into consideration, the facts and circumstances of the case and considering the period of incarceration suffered by the petitioner from 29.10.2020, 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-I, Tiruvannamalai**, 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 Vellore and report before the Sathuvachari 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)

(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-I,
TIRUVANNAMALAI.

2 THE CHIEF JUDICIAL MAGISTRATE,
TIRUVANNAMALAI [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

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

5 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

6 THE OFFICER INCHARGE,
SATHUVACHARI POLICE STATION,
VELLORE.

CC to M/S B.JAWAHAR Advocate on payment of necessary charges

CRL OP.19315/2020

Date :08/12/2020

MN-09/12/2020