

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

CrI.O.P.No. 19201 of 2020

Subash

... Petitioner/Accused No.3

Vs.

The State represented by, ... Respondent/Complainant
The Inspector of Police,
Vanapuram Police Station,
Vanapuram, Tiruvannamalai District.
Crime No.2766 of 2020.

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.2766 of 2020, on the file of the respondent police.

For Petitioner : Mr.B.Jawahar

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (CrI. Side)

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 16.09.2020 for the offences punishable under Sections 302, 392 and 397 of I.P.C., in Crime No. 2766 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz. Balakrishnan is that his parents were living separately in a hut and on 16.09.2020 he was informed that his father was unconscious with injuries and his mother was found with bleeding injuries in her nose and when he enquired the same, he was informed that three youngsters, who are also the resident of the same village, had entered into the house on 15.09.2020 at night hours and assaulted his father and mother and robbed an amount of Rs.2,500/- and also robbed the gold nose stud of his mother. His father was unable to get up due to the assault of the three youngsters, hence, his father was sent to the hospital in 108 Ambulance and admitted

for treatment and while taking treatment he succumbed to the injuries.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the alleged occurrence took place on 15.09.2020 and the complaint was given only on the next date. Though the mother of the defacto complainant is the witness to the occurrence, she has not named the accused and the names of the accused have been brought in only on suspicion. He would further submit that the petitioner is in custody for 80 days as on today and the major part of the investigation is over. Hence, he prays to grant bail to the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that it is a case of murder for gain. He would submit that the accused are the residents of the same village of the victims. The petitioner along with other accused had entered into the house of the defacto complainant's parents and assaulted them and also robbed a sum of Rs.2,500/- and a gold nose stud from the mother of the defacto complainant. Due to the injury suffered, the father of the defacto complainant died. He would further submit that investigation is pending and there is no previous case against this petitioner.

5.Heard the learned counsel on either side. Perused F.I.R. and other materials placed on record.

6.Taking into consideration of the facts and circumstances of the case and the submissions made by the learned counsels, 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.1, 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 his release from prison, shall stay at Chennai and report before the Flower Bazaar Police Station everyday at 10.30 a.m. until further orders. The petitioner shall not enter into the jurisdictional limits of the respondent police.

(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/-

04/12/2020

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.1
TIRUVANNAMALAI.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VANAPURAM POLICE STATION,
VANAPURAM,
TIRUVANNAMALAI DISTRICT

5 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

6 THE OFFICER INCHARGE,
FLOWER BAZAAR POLICE STATION,
CHENNAI.

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

CRL OP.19201/2020

Date :04/12/2020