

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.12.2020

CORAM :

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

CRL.O.P.No.19454 of 2020

Rathinam

... Petitioner

Vs.

The State Represented byRespondent
Inspector of Police
Deevattipatty Police Station
Salem District
Crime No.690 of 2020.

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.690 of 2020 on the file of the respondent.

For Petitioner : Mr.C.Prabakaran

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 14.10.2020 for the offence punishable under **Sections 302 IPC, in Crime No.690 of 2020** on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant Easwari/sister of the petitioner, is that the deceased Sengodi had earlier got married with one Mahalingam and thereafter, due to some misunderstanding, they got separated. Thereafter, the said Sengodi was living together with the younger brother of the defacto complainant namely Chinnadurai and they have got two children. While so, the said Sengodi again developed intimacy with one Govindaraj and thereby, she was driven out of the matrimonial home. While so, on 12.10.2020, the said Sengodi came to the house of the brother of the defacto complainant and created problem with the family members and also abused them in filthy language. Further, she had misbehaved in a nasty way by lifting her clothes and quarrelled with them. Got enraged by the act of the said Sengodi, the petitioner assaulted her with wooden side of spade due to which, she died.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent. Even as per the allegation, the Said Sengodi was living together with the brother of the petitioner and later she developed intimacy with one Govindaraj and thereby, she was driven out of the matrimonial home. While so, on 12.10.2020, the victim Sengodi had come to the house of the younger brother of the defacto complainant and created problem in a nasty way by lifting her clothes and abused the family members in the house in filthy language. Thereby, a quarrel arose and during the quarrel , the petitioner assaulted the victim with wooden side of spade due to which she sustained injury and died on the spot and that there is no intention on the part of the petitioner to commit the murder and it had happened only during a sudden provocation. He would further submit that the petitioner was arrested on 13.10.2020 and remanded to judicial custody on 14.10.2020 and that he has been suffering incarceration for 59 days till today. Hence, he prays for grant of bail.

4.The learned Government Advocate (Cl.Side) appearing for the respondent would vehemently oppose stating that the deceased is the sister-in-law of the petitioner and due to family quarrel, the petitioner assaulted the deceased with wooden side of spade due to which she sustained injury and died on the spot. He would further submit that the investigation is pending.

5. Heard both sides and perused the F.I.R.

6.Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsels 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, Omalur, Salem District**, 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 North 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.

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

-sd/-

10/12/2020

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,
OMALUR, SALEM DISTRICT

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
DEEVATTIPATY POLICE STATION,
SALEM.

5 THE SUPERINTENDENT
CENTRAL PRISON, SALEM

6 THE OFFICER INCHARGE,
NORTH POLICE STATION,
VELLORE.

+1 CC to C.PRABAKARAN Advocate on payment of necessary charges
SR.NO.8082

CRL OP.19454/2020

Date :10/12/2020