

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2020

CORAM :

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

CRL.O.P.No.20342 of 2020

PATHIYANATHAN

... Petitioner

Vs.

State: Inspector of Police,
Anchetty Police Station,
Krishnagiri District.
(Crime No.234 of 2020)

... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Cr.P.C, to enlarge the petitioner on bail in Crime No.234 of 2020 on the file of the respondent police.

For Petitioner : Mr.P.Saravanan

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 01.10.2020 for the offence punishable under Section 174 Cr.P.C., @ 302, 201 of IPC, in Crime No.234 of 2020, seeks bail.

2. The case of the prosecution as per the *de facto* complainant viz., Selvam, Chinnamalai forest beat officer is that while he was on his usual rounds in the forest, he found half burnt female body aged about 32 to 40 years. Finding suspicious in her death, on his complaint, a case was registered. During the course of investigation, it came to light that A1 had illicit intimacy with the deceased for the past six years and he had also received a lot of money from her. When the deceased demanded money, the petitioner along with A1 had taken the deceased to the forest area and committed the murder by pouring kerosene on her and set fire to the body to screen the evidence.

3. The learned counsel appearing for the petitioner would submit that this is the second application for bail and that the earlier application for bail was dismissed by this Court on 20.11.2020 in CrI.OP.No.18288 of 2020. He would submit that it is the case of circumstantial evidence and that apart from the alleged confession statement from the first accused, while he was in custody, there is no other material to implicate the petitioner. He would submit that the first accused in this case has been granted bail by the learned District and Sessions Judge, Krishnagiri in CrI.MP.No.2415 of 2020 dated 14.12.2020. He would submit that the petitioner was arrested on 01.10.2020 and he is in custody for the past 70 days and hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (CrI. Side) appearing for the respondent police would vehemently oppose stating that it is the case where the petitioner along with other accused had brutally assaulted the deceased and set fire to the body by pouring kerosene to screen the evidence. He would further submit that the investigation is pending in this case.

5. Taking into consideration the facts and circumstances of the case and the submissions of the learned Counsels and the fact that the first accused, on whose confession the petitioner has been arrested, has been granted bail by the learned District and Sessions Judge, Krishnagiri 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 District Munsif-cum-Judicial Magistrate, Denkanikkottai, 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 the prison, shall report before the respondent Police everyday at 10.30 a.m. 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.

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-
21/12/2020

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 DISTRICT MUNSIF-CUM-
JUDICIAL MAGISTRATE, DENKANIKOTTAI.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ANCHETTY POLICE STATION,
KRISHNAGIRI DISTRICT.

5 THE JAILER,
SUB-JAIL, HOSUR.

CC to Mr.P.Saravanan, Advocate on payment of necessary charges

WEB COPY

CRL OP.20342/2020

Date :21/12/2020

TA-22/12/2020