

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.12.2020

CORAM :

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

CRL.O.P.No.20155 of 2020

Kamalakaran

... Petitioner

Vs.

State rep by

... Respondent

The Inspector of Police,
Shankar Nagar Police Station,
Chennai.

(Crime No.1030 of 2020)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.1030 of 2020 on the file of the respondent police.

For Petitioner : Mr.S.Pugazhendhi

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 03.12.2020 for the offence punishable under **Section 174 Cr.P.C., and thereafter altered into Section 306 IPC, in Crime No.1030 of 2020**, on the file of the respondent police, seek bail.

2.The case of the prosecution as per the defacto complainant Selvi is that her first daughter Vadivambiga @ Vani was given to marriage with one Saravanan before 21 years and they have got two children. Meanwhile, due to some misunderstanding, she got separated from her husband and was living alone. While so, she got acquainted with the petitioner Kamalakannan and that they were living together. While so, 02.11.2020 at about 10.30 a.m. the defacto complainant's daughter committed suicide at her home by hanging. Based on the complaint given by the defacto complainant, initially the case was registered under Section 174 Cr.P.C. Thereafter, during the course of investigation, it came to light that the deceased was living together with the petitioner and that the petitioner had assured that he would get divorce from his wife and would marry her. Whereas, he had not get divorce and was

dragging the issue. Thereby, the deceased felt cheated by the petitioner and committed suicide.

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. He would submit that admittedly the petitioner was taking steps to get divorce from his wife legally and while it was pending, the victim committed suicide and that the petitioner never abetted the suicide of the victim. Only due to depression, the deceased committed suicide. Infact, the petitioner is the person who had helped the defacto complainant to break open the door and to take the victim to the hospital. He would further submit that there is absolutely no evidence to show that the petitioner abetted the suicide of the victim and that the petitioner has been suffering incarceration from 03.12.2020. Hence, he prays for grant of bail.

4.The learned Government Advocate (Criminal Side) would vehemently oppose stating that the deceased is a divorcee. The petitioner and the deceased were living together and that the petitioner had promised her to get divorce from his wife and to marry her. Whereas, the petitioner was dragging the issue. Thereby, the deceased committed suicide by hanging.

5.Taking into consideration of the facts and circumstance of the case and 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 No.II, Tambaram, Chengalpattu 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 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/-

18/12/2020

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, TAMBARAM, CHENGALPATTU.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
SHANKAR NAGAR POLICE STATION,
CHENNAI.

5 THE JAILER,
SUB JAIL, CHENGALPATTU.

+1 CC to M/S S.PUGAZHENDHI Advocate on payment of necessary charges SR.NO.8414

CRL OP.20155/2020

Date :18/12/2020

TA-21/12/2020