

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.12.2020

CORAM :

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

CRL.O.P.No.20464 of 2020

Vimalraj

... Petitioner

Vs.

State by,
Inspector of Police,
Namakkal Police Station,
Namakkal.
(Crime No.1611 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.1611 of 2020 on the file of the respondent police.

For Petitioner : Mr.C.D.Johnson

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

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 29.11.2020 for the offence punishable under Section 304 of IPC, in Crime No.1611 of 2020, seeks bail.

2. The case of the prosecution as per the de facto complainant Vijays is that her daughter Rithikashri is doing her B.A. 2nd year at Namakkal Government Arts College for Women. During her school education, she fell in love with the petitioner Vimalraj. When it came to the knowledge of the defacto complainant, she along with her husband went to the house of the petitioner and informed his parents about the relationship and also informed them that they will initiate the wedding process only after completion of her education. While so, on 28.11.2020, the defacto complainant's daughter had gone to the typewriting class and she had taken the mobile phone of the defato complainant. Thereafter, at about 6.30 p.m., the defacto complainant received a call and was informed that her daughter fell into a well. Immediately, the defacto complainant along with her neighbor went to the place of occurrence and she had seen the fire service personnels

were rescuing the petitioner and her daughter. Thereafter, when the defacto complainant's daughter was taken to hospital where she was declared as brought dead. During the course of investigation, it came to light that the petitioner and the victim girl were sitting and chatting near a field. At that time, the owner of the land had seen them and reprimanded them. Thereby, they ran away from that place without noticing the well and fell into the well.

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 alleging that the petitioner is the cause for the death of the victim. He would submit that the petitioner cannot be charged for culpable homicide not amounting to murder since, the incident happened when the owner of the property reprimanded them and out of fear both the petitioner and the victim ran away through the fields without noticing the well. Unfortunately, the victim succumbed to injuries due to fall into the well. He would further submit that the petitioner has also sustained injuries. Whereas, on wrong presumption the petitioner has been arrested. He would further submit that the petitioner is aged 19 years and he has been in judicial custody from 29.11.2020 for no fault of his. Hence, he prays for grant of bail.

4. The learned Government Advocate (Crl. Side) appearing for the respondent police would vehemently oppose stating that the petitioner is the friend of the daughter of the defacto complainant. While so, on 28.11.2020 they were seen in closeness near a field by the owner of the property. When the owner of the property had asked them to get away from his property, they ran away without noticing the well therein and fell into the well. Unfortunately, the victim sustained injuries due to the fall and died and that the petitioner is the reason for the death of the victim.

5. Taking into consideration the facts and circumstances of the case and the submissions of 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-I, Namakkal 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 the prison, shall report before the respondent police everyday at 10.30 a.m. for a period of two weeks and thereafter, every Monday 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/-

22/12/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

सत्यमेव जयते

TO

1 THE JUDICIAL MAGISTRATE,
NO.I, NAMAKKAL DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL JAIL, SALEM.

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4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

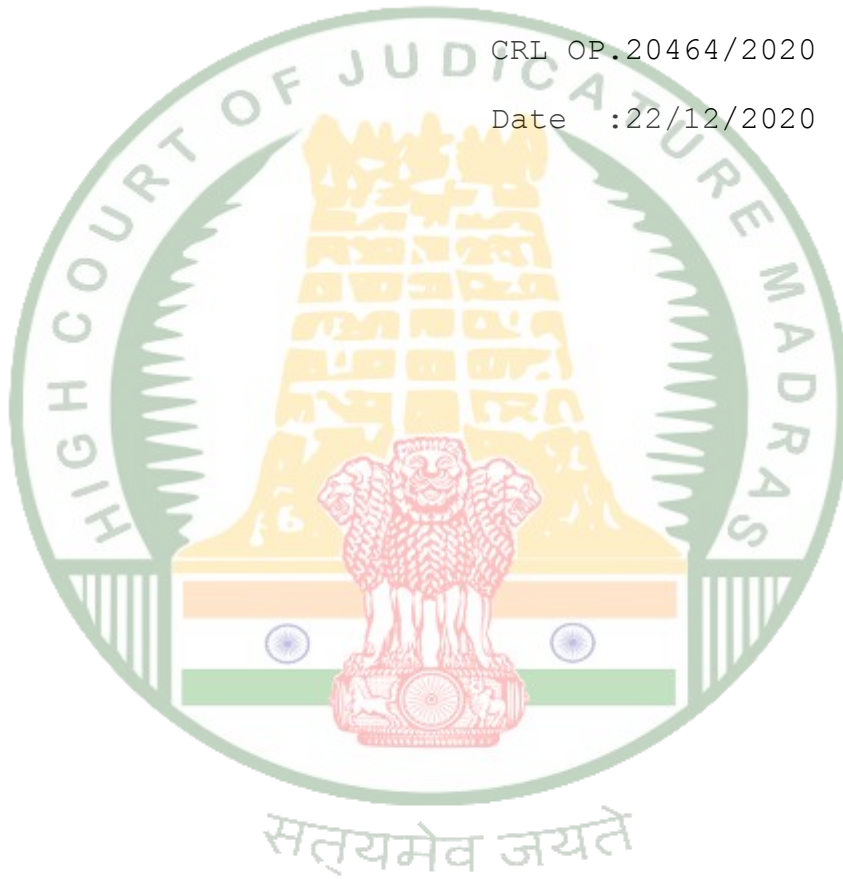
5 THE INSPECTOR OF POLICE,
NAMAKKAL POLICE STATION,
NAMAKKAL.

+1 CC to M/S. C.D.JOHNSON Advocate on payment of necessary charges

CRL OP.20464/2020

Date :22/12/2020

cs 23/12/2020



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