

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.12.2020

CORAM :

THE HON'BLE MR.JUSTICE V.SIVAGNANAM

CRL.O.P.No.20856 of 2020

Nagarajan

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Kariyapattinam Police Station,
Nagapattinam District
(Crime No.741 of 2020)

.... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.741 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.N.Palanivel

For Respondent : Mr.K.Madhan
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 26.10.2020 for the offences punishable under Section 302 IPC, in Crime No.741 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner is the father of the deceased. The deceased is a bachelor. On the date of occurrence, when the deceased came home in an inebriated condition and picked up a quarrel with the petitioner for parking his two wheeler near the place of his mother's sleeping area, there was a scuffle and the petitioner had attacked the deceased/ his son with a wooden log, due to which, the deceased succumbed to 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 petitioner is the father of the deceased and the deceased frequently picked up quarrel with the petitioner, whenever he consumed alcohol and on the date of occurrence, it was the deceased who attacked the petitioner

at the first instance. He would further submit that the petitioner is a Senior citizen, aged about 72 years and prays for grant of bail.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner is the sole accused in this case. The petitioner is the father of the deceased and the complaint was given by the brother's wife of the deceased. On the date of occurrence, there was a quarrel between the deceased and the petitioner, thereby, there was a scuffle, and during the scuffle, the petitioner had assaulted the deceased with wooden log, due to which, the deceased died on the spot.

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

6. Overall consideration of the facts, the nature of accusation, the nature of offences, the materials in support of the accusation and the circumstances of the case and the period of detention of the petitioner in the judicial custody, 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.25,000/- (Rupees Twenty Five Thousand only), with two sureties each for a like sum to the satisfaction of the learned **District Munsif Cum Judicial Magistrate, Vedharanyam**, 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.

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

-sd/-
30/12/2020

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, VEDHARANYAM

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM DISTRICT [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

4 THE JAILER, DISTRICT PRISON, NAGAPATTINAM

5 THE INSPECTOR OF POLICE,
KARIYAPATTINAM POLICE STATION, NAGAPATTINAM DISTRICT

+1 CC to M/S. N.PALANIVEL Advocate on payment of necessary charges SR.NO.8749

CRL OP.20856/2020

Date :30/12/2020

GKS:30/12/2020