

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.397 of 2021

Sankar

... Petitioner

Vs.

The State Rep. by Inspector of Police,
H-1, Washermenpet Police Station,
Chennai District.
(Crime No.1046 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.1046 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr.S.Suresh

For Respondent : Mrs.M.Prabhavathi
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 16.12.2020 for the offence punishable under Section 174 altered to 304(2) of IPC, in Crime No.1046 of 2020, seeks bail.

2. The case of the prosecution is that the deceased is a husband of the defacto complainant and he was suffering from mental illness, hence, he was taken to petitioner, who was a Poojari, by his profession in Nagathamman Temple situate at Pammathukulam to perform some rituals, in order to treat his mental illness. On 27.05.2020 the deceased was taken to the petitioner's temple by the brother of the deceased to get blessings for two days, since he was already ill and weak. After 10 days the deceased was died on 9.6.2020. Subsequently, a complaint was lodged by the defacto complainant, pursuant to which, a case has been registered against the petitioner by the respondent police alleging that the deceased died due to the torture committed by the petitioner.

3. The learned counsel appearing for the petitioner would submit that the petitioner was arrested on 16.12.2020 and he is a Poojari in the Nagathamman temple and the deceased was taken to the petitioner's temple for performing some poojas and on the very same day, he returned back home and subsequently he died on 09.06.2020. He would further submit that the petitioner is an innocent person and he has been falsely implicated in this case. Even as per the F.I.R., absolutely there is no allegations has been found against the petitioner. Whereas, in the FIR, the wife of the deceased has stated that the deceased is having some mental illness and he used to beat himself with belt and wooden log and sustained injuries and subsequently the de-facto complainant had given a statement under Section 161 Cr.P.C. implicating the petitioner. He would further submit that the name of the accused is not found in the FIR.

4. The learned Additional Public Prosecutor would submit that he had received huge money from the family of the deceased person to conducted some Poojas to treat the mental illness of the deceased and subsequently he died. He would further submit that originally the case was registered for the offence under Section 174 Cr.P.C., subsequently, the same was altered to Section 304(2) IPC.

5. Considered the rival submissions made on either side. On perusal of the FIR, it is seen that the wife of the deceased only stated that the deceased had some mental illness and he used to beat himself with belt and wooden log and on 09.06.2020, he died. Subsequently the defacto complainant has given a statement before the respondent police implicating the petitioner. Perusal of the FIR would reveal that originally there was no allegations as against the petitioner.

6. Taking into consideration the above facts and circumstances of the case and also taking note of the fact that the petitioner is in jail for more than one month, 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 XV Metropolitan Magistrate, George Town. Chennai, 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 daily 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/-

20/01/2021

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 METROPOLITAN MAGISTRATE
NO.XV, GEORGE TOWN, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE OFFICER INCHARGE
SUB JAIL, KANCHIPURAM

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
H-1, WASHHERMANPET POLICE STATION,
CHENNAI DISTRICT.

+1 CC to M/S S.SURESH Advocate on payment of necessary charges
SR.No.622

CRL OP.397/2021

Date :20/01/2021