

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.578 of 2021

Kutty @ Kannan

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
G7 Acharapakkam Police Station,
Chengalpattu.
(Crime No.169 of 2019)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.169 of 2019 pending investigation on the file of the Respondent.

For Petitioner : Mr.V. Athi Kesavan

For Respondent : Mr.M. Prabavathy,
APP

O R D E R

(The case has been heard through video conference)

Petitioner, who was arrested and remanded to judicial custody on 18.11.2020 for the offence punishable under Section 302 IPC in Crime No.169 of 2019 and seeks bail.

2. The petitioner is the sole accused. The case of the prosecution is that the deceased and the petitioner are close friends and the deceased was having illicit intimacy with a lady, who is the neighbour of the deceased, for which, the deceased condemned the petitioner frequently. That apart, the deceased has also borrowed money from the petitioner, due to which, there was money dispute between the parties. On the date of occurrence, the petitioner is said to have attacked the deceased on his head using stones while the deceased was sleeping in his house and murdered him. Hence, a case has been registered against the petitioner.

3. The learned counsel for the petitioner would submit that it is a case of circumstantial evidence and based on the alleged extra judicial confession before the Village Administrative Officer, he has been roped in this case. He would further submit that final report has been filed in this case. Hence, he seeks bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that due to personal motive, the petitioner attacked the deceased while he was sleeping in his house and caused death of the deceased and the petitioner has also given extra judicial confession before the Village Administrative Officer. She would further submit that investigation is completed and final report has also been filed and the matter is pending for committal. Hence, she opposed to grant bail to the petitioner.

5. Considering the said facts and circumstances of the case and the fact that final report has been filed and the matter is pending for committal and also the fact that based on the extra judicial confession the accused was arrested 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, Madhuranthagam, 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 shall stay at Trichy and report before the Inspector of Police, Trichy Cantonment Police Station daily at 10.30 a.m. for a period of one month and thereafter, before the respondent police as and when required for interrogation.

(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 JUDICIAL MAGISTRATE,
MADHURANTHAGAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
G7-ACHARAPAKKAM POLICE STATION,
CHENGALPATTU.

6 THE INSPECTOR OF POLICE,
TRICHY CANTONMENT POLICE STATION,
TRICHY.

CC to M/S.V.ATHI KESAVAN Advocate on payment of necessary charges

CRL OP.578/2021

Date :20/01/2021

MK:21/01/2021