

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.1203 of 2021

Pravin

... Petitioner

Vs.

The State Rep. by  
The Inspector of Police,  
J-5 Sastri Nagar Police Station,  
Chennai - 600 020  
Crime No.287 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.287 of 2019 pending investigation on the file of the Respondent.

For Petitioner : Mr. S. Palanivel

For Respondent : Mrs. M. Prabhavathi,  
APP

O R D E R

(The case has been heard through video conference)

The Petitioner, who was arrested and remanded to judicial custody on 23.10.2020 for the offence punishable under Sections 302, 380, 201, 120(b) of IPC r/w. 34 of IPC in Crime No.287 of 2019, seeks bail.

2. The petitioner is the sole accused. The case of the prosecution is that due to property dispute, the petitioner said to have murdered his own mother. Hence, a complaint came to be registered.

3. Earlier, bail was granted to the petitioner on 30.10.2019 with a condition to appear before the respondent police daily at 10.00 a.m., until further orders. Subsequently, it was modified to appear before the respondent police once in a week, i.e., first working day morning 10.00 a.m., and evening 5.00 p.m.,. Since the petitioner did not comply with the said condition, and also there was an allegation that the petitioner has threatened the defacto complainant, the Committal Court cancelled the bail, by an order dated 23.10.2020 and thereafter, the petitioner was arrested and remanded to judicial custody on 23.10.2020 itself. Now, seeking bail the present bail application has been filed.

4. The learned counsel for the petitioner would submit that due to covid-19 pandemic situation, he was not able to appear before the respondent police and a false complaint has been given against the petitioner. He would further submit that the petitioner undertakes to comply with the condition regularly.

5. The learned Additional Public Prosecutor would submit that the petitioner is not cooperating with the investigation and failed to comply with the bail condition. She would further submit that due to property dispute, the petitioner has murdered his own mother and thereafter, he escaped and after much difficulty, he was arrested at Delhi. If the petitioner is released on bail, he may abscond. She would also submitted that now, investigation is completed and final report also filed and the matter is pending for trial in SC.No.165 of 2020 on the file of the Mahila court, Chennai. Hence, she opposed to grant bail to the petitioner.

6. Heard both sides and perused the materials available on records carefully.

7. Earlier, the petitioner was granted bail and thereafter, the petitioner has not complied the condition and failed to appear before the respondent police. Apart from that, he has also threatened the defacto complainant, who is his own sister. Now, the petitioner is in jail for more than 3 months. Now, the matter is also committed and pending for trial.

8. Taking into consideration of the above facts and circumstance of the case, and the fact that earlier bail was granted to the petitioner and since the petitioner has not complied the condition due to unavoidable circumstances, the bail was cancelled 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 IX Metropolitan Magistrate, Saidapet, 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 shall report before the trial Court daily at 10.30 a.m., on all working days 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 the trial and if any such complaint is received, it is open to the respondent to seek cancellation of bail;

(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 petitioners 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.

9. With the above directions, this Criminal Original Petition is ordered. If the petitioner threaten the witness or if any further complaint is registered against the petitioner, it is always open to the prosecution to cancel the bail.

-sd/-

24/02/2021

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 IX METROPOLITAN MAGISTRATE, SAIDAPET, CHENNAI

2 THE CHIEF METROPOLITAN  
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,  
J-5, SASTRI NAGAR POLICE STATION, CHENNAI - 600 020.

5 THE SUPERINTENDENT,  
CENTRAL PRISON, PUZHAI, CHENNAI

CC to M/S.S.PALANIVEL Advocate on payment of necessary charges  
Sr.2201

CRL OP.1203/2021

Date :24/02/2021

RVR 25/02/2021