

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.2173 of 2021

Palani @ Bhavana

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
H-1 Police Station,
Old Washermanpet,
Chennai.
(Crime No.5188 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.5188 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr. G.B. Motcham

For Respondent : Mrs. M. Prabhavathi
APP

O R D E R

(The case has been heard through video conference)

Petitioner, who was arrested and remanded to judicial custody on 06.12.2020 for the offence punishable under Section 309 IPC altered to 174 Cr.P.C and thereafter, altered to Section 306 IPC in Crime No.5188 of 2020, seeks bail.

2. Totally there are two accused and the petitioner is A1. The case of the prosecution is that the deceased in this case borrowed money from the petitioner and one another/A2. Earlier, the petitioner along with other accused said to have threatened the deceased while demanding repayment. Hence, the deceased poured kerosene and set fire on her. Hence, the case was registered.

3. The learned counsel for the petitioner would submit that the petitioner had only demanded repayment of the loan given by her and she has been falsely implicated in this case. He would further submit that A2 in this case, similarly placed person, got anticipatory bail. Hence, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor vehemently opposed for granting bail stating that the petitioner threatened the deceased to repay the amount, and if the amount is not repaid she will meet dire consequences and the deceased has also given a judicial dying declaration to that effect.

5. I have considered the rival submissions and perused the materials available on records carefully.

6. Considering the facts and circumstances of the case, and the fact that co-accused in this case was already released on anticipatory bail 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 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 shall report 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.

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

-sd/-
10/02/2021

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 THE METROPOLITAN MAGISTRATE
NO.XV, GEORGE TOWN, CHENNAI.

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

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

+1 CC to M/S.G.B.MOTCHAM Advocate on payment of necessary charges
SR.NO.1393

सत्यमेव जयते
WEB COPY

CRL OP.2173/2021

Date :10/02/2021

cs 11/02/2021