

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.3096 of 2021

Pandiyan

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
Gingee Police Station,
Villupuram District.
(Crime No. 3028 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. 3028 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr. V.R.Appaswamee

For Respondent : Mrs.M. Prabhavathi,
APP

ORDER

(The case has been heard through video conference)

Petitioner, who was arrested and remanded to judicial custody on 08.12.2020 for the offence punishable under Sections 302 & 201 IPC in Crime No.3028 of 2020, seeks bail.

2. The petitioner is the sole accused. The case of the prosecution is that the marriage between the petitioner and deceased took place 13 years prior to the occurrence and they are having 2 children. Thereafter, the petitioner said to have developed intimacy with another lady, which was questioned by the deceased, due to which, there was frequent quarrel between the petitioner and the deceased. While being so, on 03.12.2020, the petitioner said to have assaulted the deceased and hanged her in his house and informed that she committed suicide by hanging due to stomach pain. Earlier, based on the complaint given by the sister of the deceased, a crime was registered under Section 174 Cr.P.C. Subsequently, after investigation, it was altered into 302 and 201 IPC.

3. The learned counsel for the petitioner would submit

that it is not a case of murder. Since the deceased was suffering

from severe stomach pain and unable to bear the same, she committed suicide by hanging inside the house. He would further submit that post-mortem report also clearly reveals that it is not a case of homicidal death. Now, the matter is pending for committal. Hence, he seeks bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner assaulted his wife and committed murder and thereafter, hanged her inside the house as if she committed suicide. Initially, a complaint was given on the ground that the deceased has committed suicide by hanging. Hence, a crime was registered under Section 174 Cr.P.C. Subsequently, Investigation clearly reveals that the petitioner has committed murder by strangulation and he has also given a confession to that effect. She would further submit that now investigation is completed and final report has been filed.

5. I have considered the submissions made on either side and I have also gone through the entire materials.

6. Considering the said facts and circumstances of the case and the fact that investigation is completed and final report has also been filed and the matter is pending for committal 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, Gingee, 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 Judicial Magistrate, Gingee, daily at 10.30 a.m., on all working days, until further order;

(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/-

18/02/2021

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 JUDICIAL MAGISTRATE,
GINGEE.

2 THE CHIEF JUDICIAL MAGISTRATE,
VILLUPURAM [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
GINGEE POLICE STATION,
VILLUPURAM DISTRICT.

5 THE OFFICER INCHARGE,
SUB JAIL, GINGEE.

+1 CC to M/S.V.R.APPASWAMEE Advocate on payment of necessary charges SR NO. 1828

CRL OP.3096/2021

Date :18/02/2021