

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No. 4465 of 2021

1. Robert
2. Anthony @ Bisi ... Petitioners

Vs.

The State Rep. by
The Inspector of Police,
M-5 Ennore Police Station,
Chennai.
(Crime No. 4109 of 2020) ... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in the event of arrest at the hands of the respondent police pending investigation in Cr.No.4109 of 2020 on the file of the respondent police.

For Petitioners : Mr.M.Nithyavel

For Respondent : Mrs.M. Prabhavathi,
APP

O R D E R

(The case has been heard through video conference)

Petitioners, who were arrested and remanded to judicial custody on 14.12.2020 for the offences punishable under Sections 341, 294(b), 323, 302 of IPC in Crime No.4109 of 2020, seek bail.

2. Totally there are 2 accused and the petitioners are arrayed as A1 and A2. The case of the prosecution is that on 13.12.2020, there was wordy quarrel between the petitioners and the son of the deceased. When the deceased, who was in an intoxicated mood, intervened and tried to pacify them, the petitioners said to have pushed him, in which, he sustained injury. Originally, a complaint was registered under Sections 341, 294(b), and 323. Subsequently, since the deceased died on 16.12.2020, the crime was altered into 294(b), 323, and 302 of IPC.

3. The learned counsel appearing for the petitioners would submit that the petitioners are no way connected with the offence and they have been falsely implicated in this case. The occurrence took place on 13.12.2020, and only after 3 days of the occurrence, i.e. on 16.12.2020, the deceased died. He would further submit that the petitioners have no intention to commit murder. Hence, he seeks bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that at the time of quarrel between the petitioners and the son of the deceased, the deceased tried to pacify them. and the petitioners pushed him down, in which, he sustained injury and thereafter, he succumbed to injuries. Hence, she opposed to grant bail to the petitioners.

5. Considering the said facts and circumstances of the case and the fact that in a wordy quarrel, out of provocation, the petitioners said to have pushed the deceased down, and the petitioners have no motive to commit murder and also considering the period of incarceration suffered by the petitioners, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Tiruvottiyur, 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 petitioners shall report before the respondent police daily at 10.30 a.m., for a period of four weeks and thereafter, as and when required for interrogation;

(d) the petitioners shall not commit any offences of similar nature;

(e) the petitioners shall not abscond either during investigation or trial;

(f) the petitioners 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 petitioners 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.

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

-sd/-
10/03/2021

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,
TIRUVOTTIYUR.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON-II, PUZHAL,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
M-5, ENNORE POLICE STATION,
CHENNAI

CC to M/S.M.NITHYAVEL Advocate on payment of necessary charges

CRL OP.4465/2021

Date :10/03/2021