

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.4127 of 2021

V. Backiyaraj

... Petitioner

Vs.

The Inspector of Police,
J-3 Police Station,
Guindy, Chennai

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.51/2021 on the file of the respondent police.

For Petitioner : Mr. V.P. Sengottuvel

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 05.02.2021 for the offence punishable under Section 302 of IPC in Crime No.51/2021, seeks bail.

2. Totally, there are two accused and the petitioner is A1. A2 is the father of A1 and the deceased. The case of the prosecution is that there was a family dispute between the brothers. On the date of occurrence, while the father of the petitioner/A1 tried to resolve the dispute between the petitioner and the deceased, quarrel arose between them, in which, the petitioner and his father/A1 are said to have attacked the deceased with hands and pushed him down due to which the deceased fainted. Immediately, he was taken to hospital, where he was declared dead. Hence the complaint came to be registered.

3. The learned counsel for the petitioner would submit that due to family dispute, there was a quarrel between the petitioner and the deceased. At that time, the deceased fell down and immediately, he was taken to the hospital, where he died due to some other ailment already he suffered. Absolutely, the petitioner has no intention to cause death to his own brother. Even postmortem report reveals that there is no injury on the body of the deceased. The petitioner is in jail from 05.02.2021. Hence, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner attacked the deceased with hands, in which he sustained injury and immediately, he was taken to hospital, where he was declared dead. Now, investigation is still pending. Hence, she vehemently opposed to grant bail to the petitioner.

5. From perusal of records, it could be seen that during the quarrel between the brothers, the petitioner is said to have pushed the deceased due to which the deceased fell down and died and the petitioner has no intention to murder the deceased. As per the postmortem report, except some abrasion, there is no other injury on the deceased.

6. Considering the above facts and circumstances of the case, and the fact that during quarrel, on sudden provocation, the petitioner attacked the deceased with hands and pushed him down. The postmortem report also reveals that there is no injury on the body of the deceased. Also taking note of 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 stay at Theni and report before the Inspector of Police, Town Police Station, Theni, daily at 10.30 a.m., 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 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/-

03/03/2021

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 IX METROPOLITAN MAGISTRATE,
SAIDAPET, CHENNAI

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

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
J-3, POLICE STATION, GUINDY,
CHENNAI.

5 THE INSPECTOR OF POLICE,
TOWN POLICE STATION, THENI.

6 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI

CC to M/S.V.P.SENGOTTUVEL Advocate on payment of necessary charges SR.2678

CRL OP.4127/2021

Date :03/03/2021

RVR 04/03/2021