

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.4587 of 2021

1. Prathap
2. Amulu

... Petitioners

Vs.

State rep by
The Inspector of Police,
M-5 Ennore Police Station,
Chennai.
Cr.No.8 of 2021

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Cr. No.8 of 2021 on the file of the respondent police.

For Petitioners: Mr. K. Bommuraj

For Respondent : Mrs. M. Prabhavathi,
APP

ORDER

(The case has been heard through video conference)

The Petitioners, who were arrested and remanded to judicial custody on 05.01.2021 for the offence punishable under Sections 294 (b), 302 of IPC in Crime No.8 of 2021, seek bail.

2. Totally, there are 2 accused and the petitioners are A1 and A2. The case of the prosecution is that the deceased is the wife of the defacto complainant. The deceased was having illicit relationship with one Janakiraman, the petitioners, who are brother and mother of the deceased, condemned her. Despite the same, she continued the illicit intimacy with the said Janakiraman. In the said circumstances, on 04.01.2021, both the petitioners said to have attacked the deceased and smoothening her by using a pillow and thereby committed murder. Based on the complaint given by the husband of the deceased, the petitioners were arrested on 05.01.2021. Now, seeking bail the present application has been filed.

3. The learned counsel for the petitioners would submit that it is a case of circumstantial evidence. the petitioners are no way connected with the offence. They are in jail for more than 70 days.

Hence, he prays to grant bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the first petitioner/A1, who is the brother of the deceased, is a history sheeted rowdy and 8 previous cases are pending as against him. The second petitioner/A2 is the mother of the deceased. On the date of occurrence, both of them attacked the deceased and caused her death. Investigation is almost completed. Hence, she vehemently opposed to grant bail to the petitioners.

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

6. Considering the fact that the first petitioner is the history sheeted rowdy element and also having 8 previous cases, this Court is not inclined to grant bail to the first petitioner and hence, this Criminal Original Petition is dismissed as against the first petitioner/A1, namely, Prathap.

7. So far as the 2nd petitioner, namely, Amulu, is concerned, investigation is almost completed and the petitioner, being a lady, is in jail for more than 70 days, this Court is inclined to grant bail to the 2nd petitioner subject to the following conditions:-

(a) Accordingly, the 2nd 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, Thiruvottiyur, 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 second petitioner shall report before the respondent police as and when required for interrogation;

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

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

(f) the second 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

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
16/03/2021

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,
THIRUVOTTIYUR, CHENNAI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

+2 CC to M/S. K.BOMMURAJ Advocate on payment of necessary charges SR NO. 3375

WEB COPY

CRL OP.4587/2021

Date :16/03/2021

MN-17/03/2021