

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.4582 of 2021

Elumalai

... Petitioner

Vs.

State rep by
The Sub Inspector of Police,
Peranamallur Police Station,
Thiruvannamalai District.
Cr.No.60 of 2021

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Cr. No.60 of 2021 on the file of the respondent police.

For Petitioner : Mr.V.R.Appaswamee

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 19.02.2021 for the offence punishable under Sections 294(b), 323, 315, 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, seeks bail.

2. Totally, there are 4 accused and the petitioner is arrayed as A4. The case of the prosecution is that, due to civil dispute between the parties, on 17.02.2021, the petitioner along with other accused have attacked the defacto complainant, who was a pregnant lady and thereby, she got aborted. Hence, the complaint came to be registered.

3. The learned counsel for the petitioner would submit that due to previous enmity, a false case has been foisted as against the petitioner. He has not committed any offence as alleged by the

prosecution. Hence, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner said to have kicked in the stomach of the defacto complainant and thereby, she got aborted. Hence, she vehemently opposed to grant bail to the petitioner.

5. I have considered the submission made on either side and perused the materials available on records carefully.

6. Even though it is stated that the defacto complainant got aborted, there is no allegation of abortion as against the petitioner.

7. Considering the said facts and circumstances of the case, and 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 Judicial Magistrate, Cheyyar, 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.

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

-sd/-
08/03/2021

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,
CHEYYAR.

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

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
PERANAMALLUR POLICE STATION,
THIRUVANNAMALAI DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

+1 CC to V.R.APPASWAMEE Advocate on payment of necessary charges
SR.NO.2969.

सत्यमेव जयते

CRL OP.4582/2021

Date :08/03/2021

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EP-09/03/2021