

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.4919 of 2021

Kanaga

... Petitioner

Vs.

The State Rep. by
Inspector of Police,
Kitchipalayam Police Station,
Salem District.
(Crime No.1182 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in concern Crime No.1182 of 2020 on the file of the respondent police.

For Petitioner : Mr.A.T.Anbu Kumar

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 23.01.2021 for the offences punishable under Sections 147, 148, 341, 302 and 427 of IPC r/w. 3 of TNPPD Act 1992 in Crime No.1182 of 2020, seeks bail.

2. It is a case of retaliation murder. Totally, there are 31 accused and the petitioner is arrayed as A29. She is mother of A2 and wife of A14. The case of the prosecution is that there was previous enmity between two groups and already two murders had taken place. In retaliation, all the accused conspired together and attacked the deceased with dangerous weapon and caused his death. So far as this petitioner is concerned, only at the instigation of this petitioner, other accused committed murder. Hence, he was arrested on 23.01.2021 and now, seeking bail, the present petition has been filed.

3. The learned counsel appearing for the petitioner would submit that absolutely, the petitioner has no role to play in this crime. Her name is also not found in the First Information Report. Only based on the confession of the co-accused, she has been

implicated in this case. She has not committed any offence as alleged by the prosecution. Hence, he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that it is a retaliation murder. All the accused and the deceased are rowdy elements. Already two murder has taken place by this Group. This petitioner is mother of A2. Only at the instigation of this petitioner, other accused persons committed murder. Hence, she opposed to grant bail to the petitioner.

5. Considering the facts and circumstance of the case and the only allegation as against the petitioner that she has instigated the other accused to commit murder and also the fact that she has been implicated in this case only based on the confession of the co-accused 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 No.II, Salem, Salem District, 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 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/-
11/03/2021

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 NO.II,
SALEM.

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

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KITCHIPALAYAM POLICE STATION,
SALEM DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

CC to M/S. A.T.ANBU KUMAR Advocate on payment of necessary charges

WEB COPY

CRL OP.4919/2021

Date :11/03/2021

MN-12/03/2021