

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CrI.O.P.No.5260 of 2021

Dinesh

.. Petitioner

Vs.

State represented by
The Inspector of Police,
Oragadam Police Station,
Kancheepuram.
(Crime No.95 of 2021)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 of Criminal Procedure Code praying to enlarge the petitioner on bail pending investigation in Crime No.95 of 2021 on the file of the respondent police.

For Petitioner : Mr.B.Aravinthan

For Respondent : Mrs.M.Prabhavathi
Addl. Public Prosecutor

For Intervenor : Mr.M.Eswaran

ORDER

(The case has been heard through video conference)

The Petitioner, who was arrested and remanded to judicial custody on 25.02.2021, for the offence punishable under Section 306 of IPC in Crime No.95 of 2021, seeks bail.

2. The petitioner is the sole accused. The case of the prosecution is that the deceased is the wife of the petitioner and daughter of the defacto complainant. It is alleged that the marriage took place on 12.06.2016 and they got two children out of the wedlock. The petitioner suspecting the fidelity of the deceased used to quarrel with her and also abused her. On 24.02.2021, there was a quarrel between the husband and wife, and suddenly the deceased came to the balcony of their house which is situated in the 4th floor of their apartment, jumped down, sustained injuries and died on the spot. Hence, a complaint was registered in Crime No.95 of 2021 under Section 306 of IPC and the petitioner was arrested on 25.02.2021. Now, seeking bail, the present petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that there was a wordy quarrel between the husband and wife and the deceased was in a depressed mood. On the day of occurrence, there was a wordy quarrel between them and suddenly she jumped from the fourth floor of their apartment. At that time, the defacto complainant/mother of the deceased was also present there. Petitioner has not intentionally abated the petitioner to commit suicide. The petitioner is in jail from 25.02.2021. Therefore, he prays to grant bail to the petitioner.

4. The learned counsel appearing for the intervenor/defacto complainant submitted that since the petitioner suspecting the conduct and character of the deceased frequently quarreled with her and abetted the deceased to commit suicide, and the deceased jumped from the balcony and committed suicide. He further submitted that after the death of the deceased, he is not taking care of the two children and the children were taken care of by the defacto complainant/mother of the deceased. He further submitted that earlier the petitioner and the deceased jointly purchased two properties, now the petitioner is likely to dispose of the same and hence the petitioner may be directed to give an undertaking that he will transfer the property in the name of the minor children.

5. The learned Additional Public Prosecutor vehemently opposed this petition stating that the petitioner in a drunken mood quarreled with the deceased and tried to remove her thali and abused the deceased in filthy language doubting her fidelity. Hence the deceased jumped from the balcony and committed suicide. Now, investigation is almost completed.

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

7. Earlier this Court directed the learned counsel appearing for the petitioner to get instructions with regard to transferring the properties to the minor children. Today, the learned counsel appearing for the petitioner filed an affidavit of the petitioner stating that the petitioner is ready and willing to release his share in the two properties in favour of his two minor children Master Rohan Sai and Master Rohit Raghav. The relevant portion of the undertaking given by the petitioner is extracted hereunder:

"4. I state that I hereby undertake before this Hon'ble Court to release of my share in above said properties to in favour of my children Rohan Sai and Rohit Raghav and I further undertake that I will have no right at all in the above said properties after registering the same."

8. Considering the above said facts and circumstances of the case, and also the fact that the occurrence had taken place due to

wordy quarrel between husband and wife and as of now, prima facie no material is available on record to show that the petitioner has abated the deceased to commit suicide and also the fact that investigation is almost completed 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, Sriperampudur 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, on release from the prison, 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.

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

-sd/-

24/03/2021

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,
SRIPERAMPUDUR.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ORAGADAM POLICE STATION,
KANCHEEPURAM.

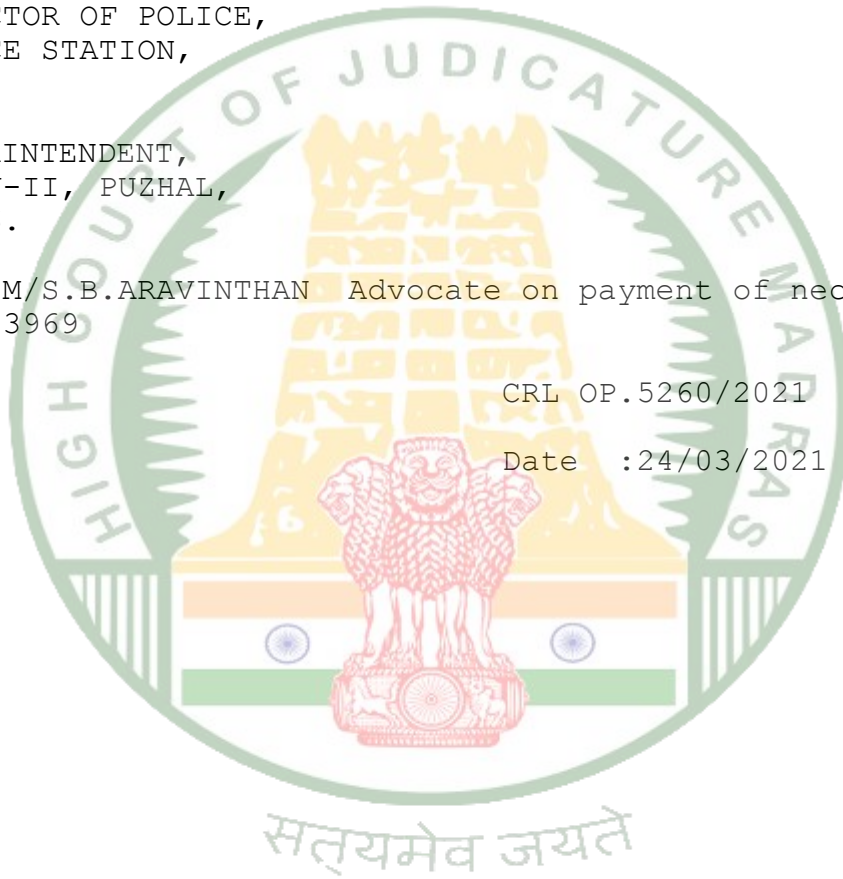
5 THE SUPERINTENDENT,
CENTRAL PRISON-II, PUZHAI,
CHENNAI-600066.

+1 CC to M/S.B.ARAVINTHAN Advocate on payment of necessary
charges SR.NO.3969

CRL OP.5260/2021

Date :24/03/2021

TA-25/03/2021



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