



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.04.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.5284 of 2021

Shanmugam

... Petitioner

Vs.

State rep. by
The Station House Officer,
Kammapuram Police Station,
Cuddalore District.
(Crime No.34 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.34 of 2021 on the file of the respondent Police.

For Petitioner : Mr.E.Kannadasan

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 15.02.2021 for the offence punishable under Sections 174 of Cr.P.C. subsequently altered into 306, 506(i) of I.P.C. r/w Section 4(B)(2) of Tamil Nadu Prohibition of Woman Harassment Act, in Crime No.34 of 2021, seeks bail.

2. The case of the prosecution is that, the deceased, one Veeramani and Durgabai, are husband and wife. The allegation is that the petitioner said to have a illicit intimacy with the deceased Durgabai. The husband of deceased, on coming to know about the same, has condemned him, despite the same, he has continued the illicit intimacy with her. In the said circumstances, both husband and wife have consumed rat poison and subsequently, died. Hence, a criminal case has been registered, and the petitioner was arrested and remanded to judicial custody on 15.02.2021. Now, this petition has been filed seeking for bail.

3. The learned counsel appearing for petitioner would submit that the petitioner is an innocent person and he has been falsely



implicated in this case. Absolutely, there is no materials available on record to show that the petitioner has any intimacy with the deceased, only due to some family dispute, they have consumed poison and died. He would submit that he is an innocent person and he has been falsely implicated in this case. He would submit that the petitioner is in jail from 15.02.2021. Hence, he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent has vehemently opposed this petition on the ground that only because of the petitioner, the occurrence has taken place. Since the petitioner is having illicit intimacy with the deceased lady, both husband and wife have consumed poison and died. Thereafter, the petitioner has got married with another lady. She would submit that as they were unconscious, no dying declaration was recorded, and now, the investigation is almost completed and there is no bad antecedents against the petitioner. Hence, she opposed to grant bail to the petitioner.

5. On perusal of records, it could be seen that the allegation is that the petitioner had illicit intimacy with the deceased lady, due to the same, both husband and wife committed suicide. Taking into consideration of the fact that now the investigation is almost completed, there is no bad antecedents against the petitioner and also considering the period of incarceration suffered by the petitioner for more than 45 days, 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, Viruthachalam**, 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, after his release from 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.

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

-sd/-
01/04/2021

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, VIRUTHACHALAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE. [FOR INFORMATION]

3 THE STATION HOUSE OFFICER,
KAMMAPURAM POLICE STATION,
CUDDALORE DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

+1 CC to M/S.E.KANNADASAN Advocate on payment of necessary charges SR.NO.4465

CRL OP.5284/2021

Date :01/04/2021

TA-07/04/2021