

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.6118 of 2021

1. Devendhar Singh
2. Saya

... Petitioners

Vs.

State Rep. by
The Inspector of Police,
Kattur Police Station,
Thiruvallur District.
(Crime No.27 of 2021)

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail pending investigation in Crime No.27 of 2021 on the file of the Respondent Police.

For Petitioner : Mr. M. Illiyas

For Respondent : Mrs.M. Prabhavathi,
APP

ORDER

(The case has been heard through video conference)

Petitioners, who were arrested and remanded to judicial custody on 08.02.2021 for the offence punishable under Section 302 of IPC in Crime No.27 of 2021, seeks bail.

2. Totally there are 2 accused and the petitioners are arrayed as A1 & A2. The case of the prosecution is that the petitioners are husband and wife and they belong to Uttarpradesh. Now, they are residing at Madhavaram and engaged in tiles laying. The deceased in this case is said to have called the second petitioner frequently over the mobile phone and sexually harassed her. The second petitioner, in turn, informed the same to the first petitioner and he advised her to keep quiet for some time. Thereafter, on 06.01.2021, the deceased went to the house of the petitioners and asked the first petitioner to send his wife along with him and he will pay money for the same. Due to which, both the petitioners scolded the deceased, at that time, the deceased attacked the first petitioner with a wooden log, in turn, both the petitioners attacked the deceased with a hammer and caused death of the deceased. Thereafter, both of them

took the body of the deceased in the motorcycle to dispose the same in a remote place. At that time, the police on patrol, waylaid them and arrested on 08.02.2021. Now, seeking bail, the present petition has been filed.

3. The learned counsel for the petitioners would submit that the deceased continuously abused the second petitioner sexually. On the date of occurrence, the deceased came to the house of the petitioners and asked the second petitioner to come along with him. When the same was questioned by the first petitioner, the deceased attacked him with wooden log and hence, out of provocation, both the petitioners attacked him. They are in jail from 08.02.2021. Hence, he seeks bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that both the petitioners attacked the deceased and caused his death. Thereafter, when they were attempting to dispose the body of the deceased, on the way, they were caught by the police. Now, investigation is almost completed. Hence, she opposed to grant bail to the petitioners.

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

6. It is seen that the deceased sexually harassed the 2nd petitioner continuously and on the date of occurrence, the deceased gone to the house of the petitioners and asked the second petitioner to come along with him and also offered money to the first petitioner. When the same was questioned by the petitioners, the deceased is said to have attacked the first petitioner with a wooden log and in return, both the petitioners attacked the deceased with a hammer and caused his death. Now, investigation is almost completed.

7. Considering the said facts and circumstances of the case and also the fact that investigation is almost completed and also considering the period of incarceration suffered by the petitioners, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate-II, Ponneri, 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 petitioners shall report before the respondent police daily at 10.30 a.m., until further orders:

(d) the petitioners shall not commit any offences of similar

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

(f) the petitioners 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.

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

-sd/-

31/03/2021

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, PONNERI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KATTUR POLICE STATION,
THIRUVALLUR DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

+1 CC to M/S.M.ILLIYAS Advocate on payment of necessary charges
SR.NO.4342

CRL OP.6118/2021

Date :31/03/2021

TA-01/04/2021

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