

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.6135 of 2021

M. Ramamurthy

... Petitioner

Vs.

State Rep. by
Inspector of Police,
Udannapalli Police Station,
Krishnagiri District.
(Crime No.153 of 2019)

... 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.153 of 2019 on the file of the respondent police.

For Petitioner : Mr. A. R.L. Sundaresan,
Senior counsel,
for Mr. A.L.Ganthimathi

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 28.01.2021 for the offence punishable under Sections 279, 338 and 304(A) of IPC altered into Sections 143, 436, 302, 307, 149 & 120(B) of IPC in Crime No.153 of 2019, seeks bail.

2. Totally, there are 14 accused and the petitioner is arrayed as A1. The case of the prosecution is that one of the deceased in this case, namely, Neelima, is the brother-in-law's wife of the petitioner and another deceased is the driver of the car. There was some business dispute between the petitioner and the defacto complainant. On 11.11.2019, when the deceased Neelima was returning to Hosur from his factory, in a car, which was driven by another deceased, namely

Murali, at Hosur-Uddanapalli Road, a tipper lorry dashed against the car. Due to the same, the car got fire, in which, the driver of the car died on the spot and the deceased Neelima was found with burn injuries, and subsequently, she succumbed to injuries. Originally, a crime has been registered under Sections 304(A), 279 and 338 of IPC. Subsequently, investigation reveals that due to business dispute, this petitioner engaged hirelings, A2 to A4 and planned to murder the deceased Neelima and dashed the car with a lorry, poured petrol on the car and set fire on it, and make it believe that as an accident. Based on the investigation, the First Information Report has been altered into 143, 436, 302, 307, 149, 120-B of IPC and the petitioner has been arrested on 28.01.2021.

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 and he has nothing to do with the occurrence. Only at the instigation of his brother-in-law, he has been falsely implicated in this case, as if, the petitioner engaged hirelings and committed murder. Earlier, the petitioner was granted Anticipatory bail. Challenging the same, the defacto complainant filed SLP No.213 of 2021 before the Hon'ble Supreme Court and the said order was set aside by the Hon'ble Supreme Court, on the ground that custodial interrogation of the petitioner is necessary in this case and investigation is still pending. Subsequently, the petitioner was arrested, and taken into police custody. Now custodial interrogation of the petitioner is also over and investigation is almost completed. He would further submit that apart from this accused, other accused were detained under Act 14/1982 and after, expiry of the detention period, they were all released on bail. He is in jail from from 28.01.2021. He would also submit that the petitioner is 65 years old person and he is suffering with serious ailment and he requires medical treatment.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is the main accused and he only planned to commit murder her own brother-in-law-'s wife and with the help of hirelings, committed murder. Investigation is almost completed and awaiting for voice recording analysis report from the Forensic department. She would further submit that other accused were detained under Goondas Act and they were released, after completion of the detention period. If the petitioner is released on bail, he is likely to tamper with the witnesses. Hence, she vehemently opposed to grant bail to the petitioner.

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

6. From the perusal of the records, it could be seen that the occurrence has taken place on 11.11.2019. The allegation against the petitioner is that due to business dispute with his brother-in-law, and his wife, Neelima, the petitioner engaged hirelings to murder her. Pursuant to the same, the other accused have dashed the car belonging to the deceased by a tipper lorry and thereafter, poured kerosene on the car and set fire, in which, the driver of the car died on the spot and the said Neelima sustained serious injuries, subsequently, succumbed to injuries. Earlier, the petitioner was granted anticipatory bail and the matter was taken to Hon'ble Supreme Court and the Hon'ble Supreme Court reverse the order on the ground that custodial interrogation of the petitioner is essential and investigation is also not completed. Thereafter, the petitioner was arrested on 28.01.2021, and, the respondent police also taken the petitioner to police custody, and now, custodial interrogation is also over. Now, it is stated that investigation is almost completed and the statement of all the witnesses have been recorded and final report is almost ready. Apart from that, other accused in this case, who were detained under Act 14, released after the detention period.

7. Considering the facts and circumstances of the case and the fact that investigation is almost completed and the custodial interrogation of the petitioner is also over 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-II, Hosur, 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 is directed to stay at Madurai and report before the Inspector of Police, Anna Nagar Police Station, Madurai 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.

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

-sd/-
30/03/2021

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, HOSUR.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
UDANNAPALLI POLICE STATION,
KRISHNAGIRI DISTRICT.

6 THE INSPECTOR OF POLICE
ANNA NAGAR POLICE STATION,
MADURAI.

+1 CC to M/S.AL.GANTHIMATHI Advocate on payment of necessary
charges SR.No.4246

CRL OP.6135/2021

Date :30/03/2021

cs 30/03/2021



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