

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No.6466 of 2021

Prakash

... Petitioner

Vs.

State rep by
The Inspector of Police,
Vazhavanthinadu Police Station,
Namakkal District.
(Crime No.94 of 2021)

... Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail in Cr.No.94 of 2021 on the file of the respondent police.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mrs.M.Prabhavathi
Additional Public Prosecutor

ORDER

The petitioner who was arrested on 19.02.2021 and remanded to judicial custody for the offences under Sections 174 of Cr.P.C altered to Sections 343 and 302 of IPC on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner illegally confined the deceased on 10.02.2021 in one of his friends house and tied his hands and legs and attacked him. Subsequently the deceased succumbed to the injuries on 16.02.2021. Hence the concerned Village Administrative Officer lodged a complaint against the petitioner before the Law enforcing agency.

3. The learned counsel for the petitioner submits that the deceased is his relative and as the deceased is a mentally retarded person and he is misbehaving with other persons, in order to control him the petitioner is said to have locked the deceased in a room and

taken care of him. Due to the health issues only the deceased had died and he has not committed any offence as alleged by the prosecution. Further, the petitioner had been in judicial custody for more than 50 days. Therefore, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor vehemently opposed the grant of bail. However, the learned Addl. Public Prosecutor fairly conceded that the deceased is a mentally retarded person but the petitioner had illegally confined him and attacked him. Due to the injuries sustained, the deceased died on 16.02.2021. She would further submit that investigation is almost completed and viscera report is yet to be received.

5. Taking into consideration the fact that the deceased is a relative of the petitioner and also a mentally retarded person and that the petitioner had only tried to control the deceased from misbehaving with others 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:

6. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Judicial Magistrate, Senthamangalam and on further condition that:

(a) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner shall report before the respondent police, daily at 10.30 a.m. until further orders;

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioner shall not abscond either during investigation or trial;

(e) on breach of any of the aforesaid conditions, the learned 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]; and;

(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
09/04/2021

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,
SENTHAMANGALAM.

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
VAZHAVANTHINADU POLICE STATION,
NAMAKKAL DISTRICT.

+1 CC to M/S.W.CAMYLES GANDHI Advocate on payment of necessary charges SR.No.4621

सत्यमेव जयते

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Date :09/04/2021

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