

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.9934 of 2021

Abdul Khaiyum

... Petitioner

Vs.

State represented by
The Inspector of Police,
D-6, Anna Square Traffic Investigation Wing,
Chintadripet,
Chennai.

(Crime No.117 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 Crime No.117 of 2021 pending investigation on the file of respondent police.

For Petitioner : Mr.A.M.Meeran

For Respondent : Mr.E.Raj Thilak
Government Advocate (Crl side)

ORDER

The petitioner/accused who was arrested on 21.05.2021 and remanded to judicial custody for the offence punishable under Sections 308, 188 IPC & 185 of M.V. Act 1988 @ 304 (ii), 188 of IPC & 184 of M.V.Act, 1988 in Cr.No.117 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner drove the car HYUNDAI CRETA bearing Regn. No.TN 01 AZ 9339 in a rash and negligent manner and dashed the two wheeler near Barnaby Junction, EVR Road, due to which, the friend of the de facto complainant sustained grievous injuries and succumbed to death. It is further alleged that the petitioner was under the influence of alcohol at the time of the aforesaid accident. Hence, the complaint was registered.

3. The learned counsel for the petitioner submits that the petitioner not consumed alcohol and there was negligence on his part and due to which, the alleged accident has occurred. He further submits that on instructions that the petitioner is willing to pay a sum of Rs.5,00,000/- [Rupees Five Lakhs only] to the victim family considering that the deceased was the sole breadwinner of the family. He also submits that the petitioner will make such payment without prejudice to his right and defence in the trial. The payment is on humanitarian consideration, not to be construed or taken as admission of guilt and is without any adverse inference of the case. Therefore, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl.Side) on instructions submits that the petitioner consumed alcohol more than the permissible limit and drove the car in a rash and negligent manner, due to which, the said accident has occurred. He further submits that the deceased hails from a poor family and mere payment would not bear the loss occurred to the deceased family. Hence, he vehemently opposed for grant of bail to the petitioner.

5 Considering the facts and submissions made by the learned counsel for the petitioner and the period of incarceration suffered by the petitioner and the present COVID-19 pandemic situations, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(a) the petitioner on instructions volunteered to deposit a sum of Rs.5,00,000/- [Rupees Five Lakhs only] by way of RTGS to the Bank Account of the mother of the deceased. The Bank Account of the beneficiary is furnished here under:

This payment to be made without delay, in any event by 08.06.2021. It is made clear no extension of time will be granted for whatsoever reason. In the event of non payment of Rs.5,00,000/-, the Bail Order will automatically stand cancelled.

A.UMA [Mother of the deceased]

Account No.429742345

CIF No.129759019

**INDIAN BANK, Narayana Guru Salai Branch,
Purasaiwalkam, Chennai.**

It is made clear that the aforesaid payment is without prejudice to the petitioner's right of defence.

(b) the petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) before the Superintendent of the District Prison, Chengalpattu, in which the petitioner has been confined on his release;

(c) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned VI Metropolitan Magistrate Court, Egmore, Chennai, within a period of 15 days from the date of lifting of lock down and commencement of regular functioning of Court below, failing which the bail granted by this Court shall stand dismissed automatically;

(d) 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;

(e) On release the petitioner shall report before the respondent police daily at 10.30 a.m. for two weeks thereafter as and when required.

(f) the petitioner shall not commit any offences of similar nature;

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

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

(i) 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].

(j) 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.

7.Post the case on 08.06.2021 for reporting compliance in making payment of Rs.5,00,000/- to victim mother.

-sd/-
04/06/2021

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 METROPOLITAN MAGISTRATE NO.VI,
EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE SUPERINTENDENT,
DISTRICT PRISON,
CHENGALPATTU.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
D-6, ANNA SQUARE TRAFFIC INVESTIGATION WING,
CHINTADRI PET, CHENNAI.

6 A.UMA [MOTHER OF THE DECEASED]
ACCOUNT NO.429742345
CIF NO.129759019
INDIAN BANK, NARAYANA GURU SALAI
BRANCH, PURASAIWALKAM, CHENNAI.

CC to M/S.A.M.MEERAN Advocate on payment of necessary charges

CRL OP.9934/2021

Date :04/06/2021

MK:08/06/2021