

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.9942 of 2021

E.Raja

... Petitioner/Accused

Versus

State by rep. By its
Inspector of Police,
Thirumangalam Police Station,
Chennai.
(Crime No.115 of 2021)

... Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 439(1)(a) of the Code of Criminal Procedure, to enlarge the petitioner on bail in Crime No.115 of 2021, pending on the file of the Inspector of Police, Thirumangalam Police Station, Chennai.

For Petitioner : Mr.R.Venkatesan

For Respondent : Mr.G.Raj Thilak,
Counsel for Government (Crl.Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 05.05.2021 for the offence punishable under Sections 174 Cr.P.C., @ 302 of IPC in Crime No. 115 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 04.05.2021, the deceased Sain @ Kumar approached the wife of the petitioner, who came in an inebriated condition and tried to sexually assault Asha @ Poongavanam, the wife of the petitioner. When she tried to defend herself from being molested by the deceased, an altercation occurred and in result, the deceased would have died. Hence the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that the deceased under the influence of alcohol, sexually abused the wife of one Ayyanar and in order to defend herself the alleged occurrence took place. The petitioner is noway connected with the crime and he seeks bail to the petitioner.

4. The learned counsel appearing for the respondent would submit that the petitioner along with other accused persons attacked the deceased, when the deceased tried to sexually assault the wife of one Ayyanar. Due to the attack and also the deceased was in an inebriated condition he died in the place of occurrence. The post-mortem report shows that the deceased was drunk at that time. Investigation in this case is still pending and he vehemently objected for grant of bail since, the petitioner was arrested only on 05.05.2021 and also an offence under Section 302 IPC attracts.

5. Considering the facts and circumstances of the case and also considering the fact that the deceased being drunkard, had gone to one Ayyanar, picked up quarrel and tried to sexually assault one Asha @ Poongavanam, who is the wife of Ayyanar. The petitioner and the other accused were in close quarters with each other, helped the wife of Ayyanar from the deceased. Due to which there has been nail marks and strangulation on the body of the deceased. Further, it is seen from the Post Mortem report that the deceased had consumed alcohol, prior to the death. In view of the same, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

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

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

(c) 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;

(d) On releasing, the petitioner shall report before the respondent police as and when required for interrogation;

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

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

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

(h) 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].

(i) 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/-
07/06/2021

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.XIII,
EGMORE, CHENNAI-600 008.

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

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
THIRUMANGALAM POLICE STATION,
CHENNAI.

CC to M/S.R.VENKATESAN Advocate on payment of necessary charges

CRL OP.9942/2021

Date :07/06/2021

MK:08/06/2021