

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.06.2021

CORAM :

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.10263 of 2021

Palanivel

... Petitioner/Accused-1

/versus/

State:rep by the Inspector of Police, ...Respondent/Complainant
Puduchatram Police Station,
Namakkal District.
(Crime No.248 of 2021)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in the Crime No.248 of 2021 on the file of the Inspector of Police, Puduchatram Police Station, Namakkal District.

For Petitioner : Mr.B.Vasudevan

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

ORDER

(The case has been heard through video conference)

The petitioner/A1, who was arrested and remanded to judicial custody on 25.03.2021 for the offence punishable under Section 302 of IPC on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the defacto complainant is the wife of deceased. The petitioner is the brother of the deceased. Due to property dispute, the petitioner along with his wife, who is arrayed as A2, attacked his brother with wooden log and stone, thereby he died. Hence, this complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is none other than the brother of the deceased. Due to property dispute, there was a wordy quarrel arose between the petitioner with regard to drawing water from the common well to irrigate their respective property. They were attacked each other. Due to which, the husband of the defacto complainant died. The petitioner sustained injuries. Further, he would submit that the second accused was arrested and released on bail. Hence, he seeks bail to the petitioner.

4.The learned Government Advocate (crl.side) would submit that totally two accused involved in this case. The petitioner, who is the brother of the deceased is the first accused. Wife of the petitioner is the second accused. She was arrested and released on bail. Due to property dispute, there was wordy quarrel arose between the petitioner family and the deceased family. Due to which, the petitioner attacked the deceased and he died. Investigation is almost completed and the respondent police is ready to file the final report.

5.Considering the facts and circumstances of the case and considering the fact that the co-accused/A2 was granted on bail and taking note into consideration the period of incarceration of imprisonment, 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 that he shall execute his own bond for a sum of Rs.10,000/-(Rupees ten thousand only) before the Superintendent of the concerned prison;

[b]thereafter, the petitioner shall execute two blood related sureties for a sum of Rs.10,000/-(Rupees ten thousand only)each, before the concerned Magistrate within a period of fifteen days from lifting of lock down and commencement of regular function of the Court below, failing which the bail granted by this Court shall stand dismissed.

[c]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.

[d]the petitioner shall stay at Thirunelveli and report before Tirunelveli Town Police Station daily at 10.30 a.m., in the morning and 05.00 p.m in the evening for a period of four weeks and thereafter, the petitioner shall report before the respondent police daily at 10.30 a.m., in the morning and 05.00 p.m in the evening for a period of four weeks and thereafter as and when required for interrogation.

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] the petitioner shall not abscond either during investigation or trial.

[g] 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]**.

[h] 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/-
11/06/2021

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 JUDICIAL MAGISTRATE,
NO.2, NAMAKKAL.

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PUDUCHATRAM POLICE STATION,
NAMAKKAL DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

6 THE OFFICER INCHARGE,
TOWN POLICE STATION,
THIRUNELVELI.

+1 CC to M/S.B.VASUDEVAN Advocate on payment of necessary charges SR.NO.6444

CRL OP.10263/2021

Date :11/06/2021

TA-11/06/2021