

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.06.2021

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.10566 of 2021

Saravanakumar

..Petitioner

-Vs-

The State Rep. by

The Inspector of Police,
Anaikaranchathiram Police Station,
Mayiladuthurai
(Crime No.118 of 2019)

..Respondent

Prayer: Criminal Original petition filed under Section 439 of Cr.PC to enlarge the petitioner / 1st accused in Crime No.118 of 2019 on bail pending investigation on the file of the Anaikaranchathiram Police Station, Mayiladuthurai District.

For Petitioner : Mr.S.Kishore Kumar

For Respondent : Mr.C.E.Pratap,
Government Advocate (Criminal Side)

O R D E R

The petitioner, who was arrested and remanded to judicial custody on 06.05.2021 for the offence under Section 174 (3) of Cr.P.C. altered to Sections 498(a) and 304(b) of IPC in Crime No.118 of 2019 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner got married with the deceased in the month of June 2015. At the time of marriage itself, the petitioner and his family members demanded huge diary. However, the deceased family presented 20 sovereigns of jewels and presented two wheeler along with household articles worth about Rs.3,00,000/-. Even then, the petitioner's family demanded another 10 sovereigns of jewels and Rs.4,00,000/- cash. Therefore, she was driven out from the matrimonial home. Thereafter, they assured that within a week they will fulfil other demands which was made by the petitioner and his family members and sent the deceased to the matrimonial home. While being so, on 29.05.2019, the father of the deceased received phone call from the first accused as if the deceased consumed poison and admitted into hospital. Thereafter, she died. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the occurrence took place on 29.05.2019. Initially a case was registered under Section 174 (3) of Cr.P.C. The petitioner got married with the deceased in the month of June 2015. Thereafter, they lived together happily. Due to sudden quarrel between them, the deceased consumed poison and the same was immediately informed to the father of the deceased by the petitioner herein. She was also taken to hospital and unfortunately due to failure of treatment, she died. Now the other accused persons were arrested and granted bail. Insofar as the petitioner is concerned, he was arrested and remanded to judicial custody on 06.05.2021. He further submitted that though Revenue Divisional Officer filed his report on 01.08.2019, the respondent altered the offence only recently and arrested the petitioner. He further submitted that in the earlier occasion, while this Court dismissing the bail petition, the learned Public prosecutor submitted that as if the petitioner along with family members poured poison on the mouth of the deceased, due to which she died. Whereas the report of the RDO revealed that the deceased herself consumed poison and thereafter she was taken to hospital by the petitioner. Hence, he seeks for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) would submit that there are totally four accused, in which the petitioner is arrayed as A1. The petitioner got married with the deceased. Even at the time of marriage, they demanded huge dowry. Though the parents of the deceased presented huge dowry at the time of marriage itself, thereafter the petitioner family demanded huge dowry and as such she was driven out from the matrimonial home. On the assurance given by the deceased family members that they will present other dowry as demanded by the petitioner family, she was sent to the matrimonial home. At that juncture, on 29.05.2019, the deceased was severely beaten up by the family members of the petitioner and as such she sustained injuries all over the body. Thereafter she consumed poison and immediately she was taken to hospital and died. He further submitted that the postmortem report revealed that there was external injuries all over the body of the deceased. Therefore, he prayed for dismissal of the bail petition.

5. There are totally four accused, in which the petitioner is arrayed as A1. The petitioner is the husband and the other accused are family members of the deceased. The deceased got married with the petitioner herein in the month of June 2015. There was quarrel between them in respect of demanding dowry, due to which the deceased was driven out from the matrimonial home and subsequently she returned to matrimonial home. At that juncture, on 29.05.2019, she consumed poison and immediately she was taken to hospital by the petitioner. Thereafter she died due to failure of treatment. In fact, the petitioner only informed through phone to the father of the deceased. Immediately after occurrence, enquiry was conducted by Revenue Divisional Officer and filed his report on 01.08.2019 itself.

The RDO report revealed that there were external injuries found in the body of the deceased on the examination of the doctor who conducted postmortem. Though the deceased died due to poison, she sustained injuries before consuming the poison. However, the respondent did not alter the offence immediately and only in the year 2021, offences were altered and arrested the petitioner after period of two years from the date of occurrence.

6. This Court dismissed the bail petition on 09.06.2021 on the ground that the petitioner and his family members poured poison on the mouth of the deceased and as such this Court dismissed. Whereas the RDO report revealed that the deceased herself consumed poison and in fact, it was prevented by the petitioner and she was taken to hospital immediately. Therefore, there was quarrel between the petitioner and the deceased before consuming poison and due to which she consumed poison and died.

7. Considering the facts and circumstance of the case and also period of incarceration by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:-

(a) the petitioner 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 learned Judicial Magistrate, Sirkazhi 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) the petitioner shall report before the respondent police daily at 10.30 a.m. and 05.30 p.m. until further orders

(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 or witness 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.

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

-sd/-
21/06/2021

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,
SIRKAZHI

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM(FOR INFORMATION)

3 THE OFFICER INCHARGE,
DISTRICT JAIL, NAGAPATTIAM

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 INSPECTOR OF POLICE,
ANAIKARANCHATHIRAM POLICE STATION,
MAYILADUTHURAI.

CC to M/S. T.RAJKUMAR Advocate on payment of necessary charges

CRL OP.10566/2021

Date :21/06/2021

RVR 21/06/2021