

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

CrI.O.P.No.20544 of 2020

Devika

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
H-1 Police Station, Old Washermanpet,
Chennai.
(Crime No.5188 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of her arrest in Crime No.5188 of 2020 pending on the file of the respondent.

For Petitioner : Mr.G.B.Motcham

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

Totally, there are two accused and the petitioner is arrayed as A1. She apprehends arrest at the hands of respondent police for the offence punishable under Sections 174(3) of Cr.P.C. and it was subsequently altered into Section 306 of I.P.C. in Crime No.5188 of 2020 and now, she has filed the above petition seeking for anticipatory bail.

2. The case of the prosecution is that the petitioner is a transgender and the deceased is also a transgender. The deceased said to have borrowed money from the petitioner and others. When they demanded for repayment, there was a quarrel between them and also said to have threatened her. Due to the same, she has committed suicide. In the said circumstances, the criminal case has been registered against the petitioner and now, she is seeking anticipatory bail.

3. The learned counsel appearing for petitioner would submit that there is a money dispute between the parties. He would submit that the deceased borrowed money from the petitioner and when she demanded repayment of loan amount, she has committed suicide. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the dying declaration of deceased would show that the petitioner has lent the money to the deceased. He would also submit that when she demanded repayment of loan amount, the petitioner had also threatened that they will attack the deceased along with other transgenders. Hence, she has committed suicide. However, he opposed to grant bail to the petitioner.

5. I have heard and considered the submissions made by the learned counsel appearing for petitioner as well as Additional Public Prosecutor and perused the records.

6. Taking into consideration of the fact that the occurrence is taken place in the money dispute, and the petitioner has demanded for repayment of loan amount, due to which, she has committed suicide, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions:

a) Accordingly, the petitioner is ordered to be released on bail, in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned XV Metropolitan Magistrate, George Town, Chennai, on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, and on further condition that:

[b] 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;

[c] the petitioner shall appear before the respondent police daily at 10.30 a.m. for the period of two weeks ;

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioner shall not abscond either during investigation or trial;

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners 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];

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

19/01/2021

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 XV METROPOLITAN MAGISTRATE
GEORGE TOWN, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
H-1, POLICE STATION, OLD WASHHERMANPET,
CHENNAI.

CC to M/S.G.B.MOTCHAM Advocate on payment of necessary charges

CRL OP.20544/2020

सत्यमेव जयते Date :19/01/2021

RVR 02/02/2021

WEB COPY