



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.24908 of 2021

Dharma @ Dharma Arasu

... Petitioner

Vs.

State Represented by
Inspector of Police
E-4 Abiramapuram Police Station
Mylapore
Chennai

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.759 of 2021 on the file of the respondent police.

For Petitioner : Mr.D.Prasanna

For Respondent : Mr.N.S.Suganthan
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 08.09.2021 for the offence under Man Missing @ into Section 302 IPC in Crime No.759 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that, as per the complaint lodged by the mother of the deceased, initially the case was registered for Man Missing and after enquiry, it was found that the deceased and the accused were selling Ganja and due to competition, the deceased was murdered. Hence, the case was altered to Section 302 IPC.



3.The learned counsel for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would further submit that this is the second application for bail and the earlier application was dismissed by this Court in Crl.O.P.No.22075 of 2021 by order dated 26.11.2021 and the co-accused/A2, A3 and A5 have been released on statutory bail and that the petitioner has been suffering incarceration for 94 days from 08.09.2021 and hence, he would pray for grant of bail to the petitioner.

4.The learned Government Advocate (Crl. Side) would raise objection stating that there are totally 6 accused in this case and there was a dispute between the accused and the deceased with regard to distribution of Ganjan due to which, the occurrence had happened but admits that the investigation is almost completed and some of the co-accused have been released on statutory bail.

5. Considering the facts and circumstances of the case and the fact that the investigation is almost completed and some of the co-accused have been released on statutory bail and also considering the period of incarceration undergone by him, this Court is inclined to grant bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned XXIII Metropolitan Magistrate, Saidapet, Chennai-15, and on further conditions that:

(a)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;

(b) the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders.

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

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

(e)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]; and;



(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

WEB COPY

-sd/-
20/12/2021

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.XXIII, SAIDAPET, CHENNAI-15.

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

3 THE INSPECTOR OF POLICE,
E-4 ABIRAMAPURAM POLICE STATION,
MYLAPORE, CHENNAI

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S D.PRASANNA Advocate on payment of necessary charges
SR.NO.15092

CRL OP.24908/2021

Date :20/12/2021

JPA 20/12/2021