



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2022

CORAM:

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

Crl.O.P.No.2175 of 2022

Venkatesan

...Petitioner

Vs.

The State rep by
The Sub Inspector of Police,
Krishnappuram Police Station
Dharmapuri District
(Crime No.427 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to grant bail to the petitioner, in Crime No.427 of 2021 on the file of the Respondent police.

For Petitioner : Mr.J.Bharathi Raja

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

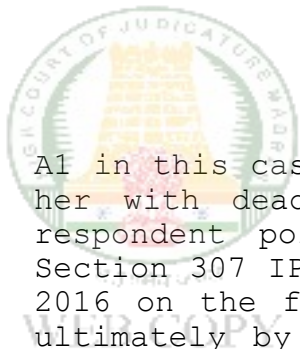
ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 29.11.2021 for the offence under Section 302 of IPC, in Crime No.427 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that there was a property dispute between the petitioner and the deceased family. Hence, the petitioner along with other accused attacked the deceased with stone and wooden log due to which, the deceased sustained grievous injuries and died on the spot. Hence, the complaint.

3.The learned counsel for the petitioner would submit that this is the second application for bail and the earlier application was dismissed by this Court in Crl.O.P.No.278 of 2022 by order dated 11.01.2022. He would further submit that the deceased was a habitual offender and his wife had deserted him long back and he was staying with her parents in Vaguthupatti Village. In the year 2012, he misbehaved with the mother of the petitioner who has been arrayed as



A1 in this case and when she resisted the same, the deceased attacked her with deadly weapons and hence, an FIR was registered by the respondent police in crime No.137 of 2012 for the offence under Section 307 IPC and he was tried for the said offence in S.C.No.90 of 2016 on the file of the learned Principal Sub-Judge, Dharmapuri and ultimately by Judgment dated 17.05.2017, the deceased was convicted and sentenced to undergo one year rigorous imprisonment. Apart from that case, other cases were also pending against the deceased for the offences under Section 379 IPC and the deceased was also detained under Act 14 of 1982. He would further submit that on the date of alleged occurrence also, the deceased in an inebriated condition misbehaved with A1 i.e. mother of the petitioner when she came out to go to bathroom at about 11 p.m., Hence, she screamed for help. Therefore, the petitioner and his brother/A3 came out of the house to save her mother and in that melee, the deceased who was already in an inebriated condition lost his balance and fell down and sustained head injuries and died and that the petitioner has not committed any offence as alleged by the prosecution and a false case has been foisted against him. He would further submit that A1 has been granted bail by this Court and the petitioner has been suffering incarceration for more than 65 days from 29.11.2021. 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 3 accused in this case and the petitioner is arrayed as A2. The petitioner the deceased are neighbours and due to property dispute, the petitioner along with other accused committed the murder of the deceased but admits that the investigation is almost completed considering the age of A1 who is a lady, this Court has granted bail to A1.

5. Considering the above facts and circumstances of the case and the fact that the investigation is almost completed and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

(a) Accordingly, the petitioner is ordered to be released on bail on executing his 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 and thereafter on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the Learned Judicial Magistrate-II, Dharmapuri, within 15 days from the date of commencement of the Court's normal functioning, 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 on every Tuesday and Sunday at 10.30 a.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 Judicial 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/-

02/02/2022

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-II,
DHARMAPURI.

2 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI DISTRICT [FOR INFORMATION]



3 THE SUB INSPECTOR OF POLICE,
KRISHNAPPURAM POLICE STATION,
DHARMAPURI DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE OFFICER INCHARGE
DISTRICT JAIL, DHARMAPURI.

CC to M/S J.BHARATHI RAJA Advocate on payment of necessary
charges

CRL OP.2175/2022

Date :02/02/2022

CSK 03/02/2022