



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

CrI.O.P.No.2827 of 2022

WEB COPY

Venkatesan @ Prabhu

...Petitioner

Vs.

The State rep by
The Inspector of Police,
Vengal Police Station
Thiruvallur District.
(Crime No.7 of 2022)

... 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.7 of 2022 on the file of the respondent police.

For Petitioner : Mr.R.Sasikumar

For Respondent : Ms.G.V.Kasthuri
(Additional Public Prosecutor)

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 18.01.2022 for the offences under Sections 279, 337 @ 294(b), 324, 506(ii) of IPC @ 307 of IPC and later altered into Section 302 IPC, in Crime No.7 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the deceased namely Munusami gave a statement that on the date of occurrence, while he was proceeding in his two wheeler, he fell down due to a dog crossed him. Initially the case was registered under Section 279 and 337 IPC. During investigation, it revealed that due to previous enmity, the petitioner assaulted the said Munusamy (deceased) using wooden log. Hence, the case was altered for the offence under Sections 294(b), 324, 506(ii) of IPC. The further investigation revealed that the deceased Munusamy with an intention to misbehave with the petitioner's wife, trespassed into the petitioner's mother-in-law's room during which, the petitioner assaulted the deceased Munusamy with wooden log. Thereafter, the deceased Munusamy was discharged from the hospital and few days later, he was admitted in the Government Hospital and was taking treatment for Covid and due to



failure of treatment, he died in the hospital. Hence, the case was altered to Section 302 IPC.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that initially the case was registered for the offence under Sections 279 and 337 of IPC and during the time of investigation, the case was again altered into Section 307 IPC and finally, the offence under Section 302 IPC was included. He would submit that in the complaint lodged before the police, nothing has been averred by the deceased as against the petitioner and that the petitioner has been in judicial custody from 18.01.2022. Hence, he would pray for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent police submitted that though the case was initially registered for the offence under Sections 279 and 337 of IPC, the dying declaration given by the deceased would go to show that the petitioner is involved in the alleged offence and if the petitioner is released on bail, he will try to tamper the evidence.

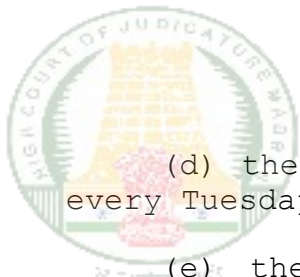
5. The submissions made by the learned Counsel on either side is considered.

6. It is seen that the present case has been registered based on the complaint given by the deceased. Subsequently, after registration of the case, dying declaration has been recorded by the Magistrate, only such time, the deceased has given a statement, wherein he impleaded the petitioner as an accused. Considering the above facts and circumstances of the case and that the petitioner has been in judicial custody from 18.01.2022 and therefore, the custodial interrogation of the petitioner may not be necessary. Hence, 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, Thiruvallur, 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 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.

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

-sd/-

07/02/2022

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,
NO.II, THIRUVALLUR

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR (FOR INFORMATION)

3 THE JAILER, SUB JAIL,
THIRUVALLUR



4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
VENGAL POLICE STATION,
THIRUVALLUR DISTRICT

CC to M/S. R.SASIKUMAR Advocate on payment of necessary charges
Sr.2071

CRL OP.2827/2022

Date :07/02/2022

RVR 09/02/2022