



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CrI.O.P. No.4059 of 2022

Althaf Ahamed

... Petitioner / A-1

versus

The State Represented by
The Inspector of Police,
Vellore North Police Station,
Vellore,
Vellore District.
(Crime No.11 of 2022)

... Respondent / Complainant

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C., praying to enlarge the petitioner on bail pending investigation in Crime No.11 of 2022 on the file of the respondent police.

For Petitioner : Mr.J.Prakasam

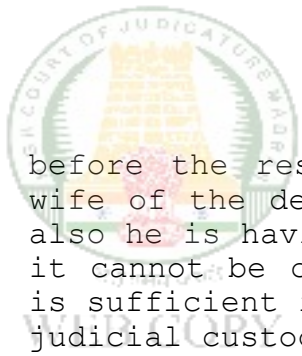
For Respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 05.01.2022 for the offences punishable under Section 174 of Cr.P.C. and subsequently altered into Sections 294(b), 302, 323, 363 of IPC in Crime No.11 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that due to previous enmity, the petitioner along with other accused kidnapped the deceased and assaulted him on the neck and as a result of which, he died, due to suffocation. Hence, the complaint.

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, in the complaint lodged



before the respondent police, the de facto complainant, who is the wife of the deceased has stated that the deceased was a drunkard and also he is having some ailments. Therefore, in the said circumstances, it cannot be concluded that the attempt made by the petitioner alone is sufficient in causing death. According to him, the petitioner is in judicial custody from 05.01.2022 onwards. Hence, he prays for bail.

4. The learned Additional Public Prosecutor appearing for the respondent police raised objection stating that investigation is pending. She would further submit that, previous to the occurrence, the deceased contacted the petitioner's mother through mobile phone and gave torture and as a result of which, the petitioner planned to murder the deceased and afterwards, all the accused joined together and committed this offence. However, she fairly admits that, a portion of the investigation has been completed.

5. Considered the submissions made by the learned counsel appearing on either side. The respondent police registered a case against the petitioner for the offences punishable under Section 174 of Cr.P.C. and subsequently altered into Sections 294(b), 302, 323, 363 of IPC. It is alleged that, during the time of occurrence, with an intention to kill the deceased, the petitioner herein and one another accused, who is arrayed as A-2 joined together and after kidnapping the deceased, attacked him on various parts and resultantly, the deceased fell into unconscious. However, after some time, he died. In the said circumstances, as of now, a portion of investigation has been completed, further the petitioner is in judicial custody for the past 50 days.

6. Therefore, taking note of all the above said aspects into consideration, particularly considering the fact that the alleged offence was committed by the petitioner due to the misbehaviour committed by the deceased and also considering the period of incarceration, this Court is inclined to grant bail to the petitioner subject to certain conditions. Hence, this Court is inclined to grant bail to the petitioner subject to certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions;

(a) the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.IV, Vellore.

(b) 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;



(c) the petitioner is directed to appear before the respondent police daily at 10.00 a.m. until further orders;

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

(e) 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];

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

-sd/-

23/02/2022

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.IV, VELLORE.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION].

3 THE INSPECTOR OF POLICE,
VELLORE NORTH POLICE STATION,
VELLORE. VELLORE DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S. J.PRAKASAM Advocate on payment of necessary charges
SR.NO.28218

CRL OP.4059/2022

Date :23/02/2022

JPA 25/02/2022