



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P. No.4349 of 2022

Periyasamy

...Petitioner / A-1

versus

State Rep. by
The Inspector of Police
Gangavalli Police Station,
Salem District.
(Crime No.310 of 2021)

...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.310 of 2021 on the file of the respondent police.

For Petitioner	:	Mr.E.Kannadasan
For Respondent	:	Mrs.G.V.Kasthuri Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 12.01.2022 for the offences punishable under Section 174 (3) of Cr.P.C. and subsequently altered into Sections 294(b), 323, 306 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002 in Crime No.310 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that, on 22.11.2021, due to wordy quarrel, the petitioner and other accused abused and pulled down the de facto complainant's mother and she sustained head injury. Due to such assault, the deceased committed suicide by hanging. 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, the averments found in the First Information Report does not show prima facie case for the abetment committed by the petitioner. It is his specific



submission that the petitioner is in judicial custody from 12.01.2022 onwards. Hence, he prays for bail.

4. The learned Additional Public Prosecutor appearing for the respondent police raised objection stating that investigation is pending. However, she fairly admits that, a portion of 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 (3) of Cr.P.C. and subsequently altered into Sections 294(b), 323, 306 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act 2002. The averments found in the First Information Report would disclose the fact that, previous to the occurrence, there was a wordy quarrel between the deceased and the petitioner. In the said occurrence, the petitioner abused the deceased and apart from that, nothing was shown as against this petitioner. Therefore, the said act committed by the petitioner is within the scope of abetment or not, is a matter for trial. Hence, further custody of the petitioner may not be necessary for completing the investigation.

6. Therefore, taking note of all the above said aspects into consideration and also being the reason that the petitioner is in incarceration from 12.01.2022, 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;

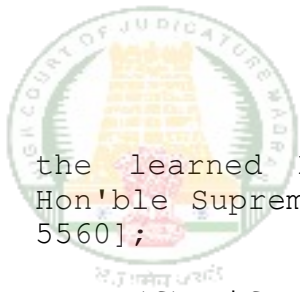
(a) the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Attur;

(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 shall report before the respondent police daily at 10.00 a.m. for a period of thirty days and thereafter, as and when required for interrogation;

(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/-

22/02/2022

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, ATTUR.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM DISTRICT [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
GENGAVALLI POLICE STATION,
SALEM DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S.E.KANNADASAN Advocate on payment of necessary charges SR.No.2789

CRL OP.4349/2022

Date :22/02/2022

CSK 23/02/2022