



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P. No.4612 of 2022

Elahi

.....Petitioner/A2

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/A-2, who was arrested and remanded to judicial custody on 05.01.2022 for the offences punishable under Sections 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 the father of the petitioner died today and due to the same, for performing the final rites, the presence of the petitioner is very much necessary. Hence, he prays for bail.



4. The learned Additional Public Prosecutor appearing for the respondent police fairly admits that the father of the petitioner died today. She further admitted that other two accused in this case were also granted bail today (23.02.2022).

5. Considered the submissions made by the learned counsel appearing on either side. On going through the averments found in the FIR, it is clear that, during the time of occurrence, due to the misbehavior committed by the deceased, the petitioner along with two others joined together and committed this offence. The petitioner is in judicial custody from 05.01.2022 and as of now, a portion of investigation has been completed.

6. Therefore, taking note of the above said aspects into consideration, this Court is inclined to grant bail to the petitioner subject to certain conditions. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions;

(a) Since it is a special case, as the petitioner's father has died, the Superintendent of Central Prison is directed to release the petitioner immediately after obtaining the own bond from the petitioner for a sum of Rs.10,000/- [Rupees Ten Thousand only];

(b) after exhausting 15 days from the date of release, the petitioner is directed to surrender before the satisfaction of the learned Judicial Magistrate No.IV, Vellore and shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each to the satisfaction of the learned Judicial Magistrate No.IV, Vellore;

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

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

(f) 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];



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

WEB COPY

-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.

+1CC to M/S.J.PRAKASAM Advocate on payment of necessary charges
SR.No.2822

CRL OP.4612/2022

Date :23/02/2022

CSK 23/02/2022