



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Dated: 05/01/2022
PRESENT

The Hon'ble Mr.Justice **G.ILANGOVA**

Crl.OP(MD)No.21025 of 2021

N.Vignesh

... Petitioner/Suspect

Vs.

The State rep. By
The Inspector of Police,
Soolakarai Police Station,
Virudhunagar District.
(Crime No.142 of 2021)

... Respondent/Complainant

For Petitioner : Mr.R.Anand, Advocate.
For Respondent : Mr.SS.Madhavan
Government Advocate (Criminal side)

PETITION FOR BAIL under Sec.439 of Cr.P.C

PRAYER :-For Bail in Crime No.142 of 2021 on the file of the Respondent Police.

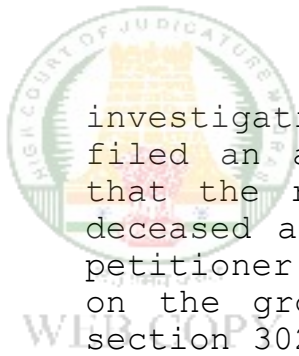
ORDER : The Court made the following order:-

The petitioner, who is arrayed as accused was arrested on 11/12/2021 and remanded to judicial custody for the offences punishable under section 302 @ 306 IPC, in Crime No.142 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that this petitioner and the deceased are husband and wife and on 20/08/2021 at about 9.45 pm, when the deceased was in the bed room, wordy quarrel arose between this petitioner and the deceased and as result of which, this petitioner strangled the neck of the deceased by using belt and thereby caused her death.

3.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent.

4.It is unfortunate case of the death of woman police constable, because of the dispute between herself and the petitioner herein, who is the husband. When the occurrence took place, the case was registered against this petitioner under section 302 IPC, in Crime No.142 of 2021. Even at the time of inception stage, when the



investigation was in the preliminary stage, the de-facto complainant filed an application to transfer the investigation on the ground that the respondent police is biased against the interest of the deceased and lenient in favour of the petitioner. Similarly, this petitioner also filed a petition to quash the criminal proceedings on the ground that even as per the allegation made in the FIR, section 302 IPC is not made out. So both the petitions were heard by me, when I was holding the portfolio of 482 Cr.P.C. Due to change of portfolio, those matters were listed before the roster Judge and the Hon'ble Judge, by order, dated 11/11/2021 has dismissed the quash petition filed by this petitioner and directed the Investigating Officer to investigate the matter, whether section 306 IPC is attracted in the facts and circumstances of the case. The offence under section 302 IPC is not at all attracted. Similarly, the transfer application that was also filed by the de-facto complainant was disposed of with a direction to the Deputy Superintendent of Police to monitor the investigation that was undertaken by the respondent, who is the Inspector of Police. So subsequent to that, the offence was altered to 306 IPC and this petitioner was arrested and remanded to judicial custody on 11/12/2021. The above matter was disposed of, on 11/11/2021. So after a month, the petitioner was arrested and the alteration report was also filed before the concerned court. Seeking bail, this petition is filed by the petitioner.

5.As mentioned earlier, when the above said matter was heard, the Investigating Officer was present in the court and I made an enquiry with him as to the circumstances, that was prevailing during the course of the above said occurrence. On that date, totally 33 witnesses have been examined. Now during the course of investigation, it was found that on the date of the alleged occurrence, the child of the parties fell sick. The deceased since she was on duty, asked the petitioner to take the child to the hospital. That was not properly attended by the petitioner. Applying permission, the deceased came to the house and took the child to the hospital. On 20/08/2021 at about 5.30 pm, after the above said issue, the deceased appears to have scolded this petitioner and during the night hours, again trouble arose between the husband and wife. At that time, this petitioner appears to have demanded the ATM card of the deceased. The deceased refused stating that the entire expenses of the family are met out by her out of her salary and the petitioner is engaged in drinking and spending money lavishing, quarrel developed between them. As per the averments made in the FIR, when that was going on, this petitioner appears to have locked the room and after some-time, he went out of the home. The de-facto complainant, who is the cousin of the deceased, has stated that at about 9.45 pm, the above said quarrel broken out between them, when this petitioner demanded the ATM card of the deceased. The issue developed further at about 10.15 pm, he went to the bed room of the deceased and at the time, he found the deceased lying on the floor. She also taken into the hospital and there were some



injuries on the neck and nadi region. So suspecting some far play of, originally the case was registered for the offence under section 302 IPC. So a conjoint reading of the developments shows that there was some sort of trouble between the husband and wife at the time of occurrence.

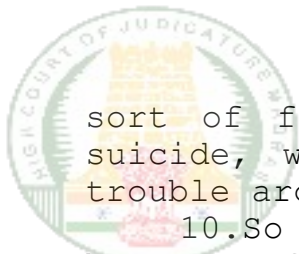
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6. Prior to that, there was a demand by the petitioner to get transfer from Virudhunagar to Madurai and that was objected by the deceased. So at the time, it appears that scolded the deceased and made some commends about her conduct. So it is the usual course of dispute between the husband and wife and the allegation and the counter allegation. Whether this issue has driven the deceased to commit suicide is a matter for trial.

7. According to the learned counsel appearing for the petitioner, there was no consistent harassment or ill treatment of this petitioner, driving the deceased to commit suicide. So according to him, it was sudden fight between them and because of sudden fight, the deceased lost heart and appears to have committed suicide. According to him, at no stretch of imagination, the conduct on the part of the petitioner will come under the definition of abatement of suicide.

8. The learned Government Advocate (Criminal side) at the time of argument would submit that the de-facto complainant is found with some injuries in the neck region and that created suspension. But during the course of postmortem, it was found that no external injuries are found on the body of the deceased except the ligature mark around the neck. The Senior Assistant Professor attached to the Medical Legal Department of Government Hospital, Virudhunagar has given an opinion on 20/12/2021, wherein she has stated that except the above said ligature mark, no other injury was found on the body of the deceased. The death occurred due to hanging. So the suspicion that was entertained by the de-facto complainant regarding the occurrence has also been ruled out of this opinion. Another contention is that the investigation is in the preliminary stage and viscera report not yet received, it is the argument on the part of the prosecution.

9. I am unable to agree with the contention of the side of the prosecution on the simple reason that most part of the investigation is over, as the entire CD file has been produced before this court. As per the alternation report, according to the prosecution, this is the following circumstances, which has driven the deceased to commit suicide. On 20/08/2021 in the night, the petitioner abused the deceased in filthy language alleging that she is indulging in immoral conduct and this conduct has ashamed the petitioner. So he scolded the deceased to commit suicide. Because of this occurrence only, the above said suicide was committed. This portion of the alternation report requires proper evidence during the course of



sort of filthy language and intimidating the deceased to commit suicide, when she was very much available in the house when the trouble arose between them.

10. So in totality of circumstances of case clearly shows that because of the trouble between the husband and wife during night hours, the suicide has been committed. Whether this petitioner induced the deceased to commit suicide or whether he has created the circumstances, which has driven the deceased to commit suicide is a matter for trial. Since most of the investigation is over and the viscera report is awaited and prime investigation has also been undertaken under the direct supervision of the Deputy Superintendent of Police, as we seen from the CD file, this court is inclined **to grant bail** to the petitioner, since tampering of the witnesses and hampering the course of investigation is not possible at the stage of investigation.

11. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Virudhunagar and on further condition that the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders.

sd/-

05/01/2022

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE JUDICIAL MAGISTRATE NO.II, VIRUDHUNAGAR.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 3 THE INSPECTOR OF POLICE
SOOLAKARAI POLICE STATION, VIRUDHUNAGAR DISTRICT.
- 4 THE OFFICER INCHARGE,
DISTRICT JAIL, VIRUDHUNAGAR.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE DEPUTY SUPERINTENDENT OF POLICE, VIRUDHUNAGAR DISTRICT.

ORDER IN

CRL OP(MD) No.21025 of 2021

Date : 05/01/2022