

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 09/11/2020

PRESENT

The Hon`ble Mr.Justice S.M.SUBRAMANIAM

CRL OP(MD). No.12606 of 2020

Balasubramaniyan ... Petitioner/Sole Accused

Vs

The State rep.by
The Inspector of Police,
Othakadai Police Station,
Madurai District.
Crime No.1703 of 2020. ... Respondent/Complainant

For Petitioner : Mr.S.Mahendrapathy,
Advocate.
For Respondent : Mrs.M.Ananthadevi,
Government Advocate (Crl.Side)

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

PRAYER :-

For Bail in Crime No.1703 of 2020 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested and remanded to judicial custody on 02.10.2020 for the offences punishable under Sections 174 Cr.P.C @ 306 of IPC on the file of the respondent police seeks bail.

2. The petitioner is a relative of the deceased woman, who committed an offence of suicide. The case was registered against the petitioner on the ground that he being a relative of the deceased had a habit of assassinating the character of the deceased woman and due to such continuous harassment, the deceased has committed suicide by setting blaze on herself.

3. The petitioner/accused has been implicated in the criminal case mainly on the ground that he had harassed the deceased by assassinating her character frequently. The deceased was separated from her husband and living alone for more than 30 years. Thus,

there is a possibility of factual inference that the character assassination would have occurred for a longer period and one cannot presume or arrive at a conclusion that only due to the character assassination, the act of suicide was committed. However, all these possibilities and probabilities ought to be investigated and the truth must be culled out during the course of trial. However, at this juncture, the Court cannot form any constant opinion with reference to the involvement of the petitioner in the crime.

4. Debates are going on larger point in our great nation regarding the matter of right to live enunciated under the Article 21 of Constitution of India and the right to die, which is not expressively ensured in any law. Contrarily, right to die is not made available to the citizen of our great nation. However, some thinkers are of the opinion that right to live includes right to die also. This implied right is provided under Article 21 of the Constitution of India. Even under the Indian Penal Code, the person who had succeeded in committing such suicide, of course cannot be punished, since the suicide is self-inflicted death. However, persons who have abated the deceased to commit suicide alone are prosecuted. This is a larger issue/larger line for arriving at a conclusion regarding the abatement to commit suicide. It would be very difficult for the prosecution, and based on certain circumstances, the Courts are also arriving at a conclusion that there is an abatement. However, it depends upon the facts and circumstances of each case. Assassination of character in a male dominated community is common. Assassination of character even among the same gender is also prevailing in our country. Gossiping and assassination of the character are certain characters developed by a few greedy men and women and on some occasions un-intentional character assassinations are also causing certain impact on the individual person. However all these aspects are debatable in order to arrive at conclusion whether the suicide can be made as an offence or right to life includes implied right to die also. Thus, it is for law makers to debate the issues by conducting larger study with the assistance of experts and academicians in the field. As far as the present case is concerned the petitioner has been implicated in the case for the offence under Section 306 IPC. It is for the State and the Union to consider these aspects for the purpose of development of debate in this issue to proceed further if necessary for maintaining the provisions of Indian Penal Code in this regard.

5. Taking note of the above facts and circumstances of the case and also taking into consideration the period of incarceration, this Court is inclined to grant bail to the petitioner subject to the following conditions:

6. 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, Melur

i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity

ii) the petitioner shall report before the respondent police daily at 10.30 a.m until further orders.

iii) the petitioner shall not tamper with evidence or witness.

iv) the petitioner shall not abscond during trial.

v) On breach of any of the aforesaid conditions, the learned 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].

vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

09/11/2020

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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, MELUR.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.
3. THE INSPECTOR OF POLICE, OTHAKADAI POLICE STATION, MADURAI DISTRICT.
4. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
5. THE ADDITIONAL PUBLIC PROSECUTOR MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.12606 of 2020

Date : 09/11/2020

AAV/KSA

<http://www.judis.fic.in/judis/fir/#SAR.3/10.11.2020/3P/6C>