



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

Tuesday, the Twelfth day of July Two Thousand Sixteen

PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

CRL OP(MD) No.11363 of 2016

UDAYAKUMAR

... PETITIONER/3RD ACCUSED

Vs

STATE REB.BY

THE INSPECTOR OF POLICE

PULIYARAI POLICE STATION,

TIRUNELVELI DISTRICT.

(CRIME NO. 123 OF 2015)

... RESPONDENT/COMPLAINANT

For Petitioner : M/S C.SUSIKUMAR Advocate

For Respondent : M/S.P.KANNITHEVAN Govt. Advocate (Crl. Side)

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

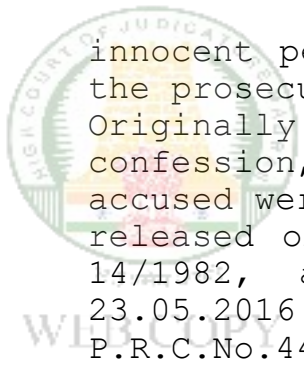
ORDER : The Court Made the following order :-

The petitioner is arrayed as accused No.3, who was arrested and remanded to judicial custody on 03.12.2015 for the alleged offences punishable under Sections 279, 338 and 304(A) IPC @ Sections 120-B and 302 IPC, in Crime No.123 of 2015, on the file of the respondent police and hence, seeks bail.

2.The case of the prosecution is that there was enmity with regard to fishing right in Ananthankulam between the two groups. Regarding the same, one Balakrishnan gave a complaint against the deceased namely Adivetti and Mahesh. They were enlarged on bail and complying with the condition. Due to that enmity, the accused persons conspired together to kill both the deceased and on 10.09.2015, when both the deceased were travelling along with three others in a share auto bearing Registration No.TN-76-F-3918, driven by one Karuppasamy, one Thirumalaikumar (A.1) drove a lorry bearing Registration No.TN-45-AW-2987 in a rash and negligent manner from opposite side and dashed against the share auto and caused death. The petitioner along with another accused also travelled in the lorry with aruval to kill both the deceased, if both of them escape in the accident. On complaint, case has been registered for the above said offences.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The case of the petitioner is that the petitioner is an



innocent person and he has not committed any offence as alleged by the prosecution. The petitioner's name has not mentioned in the FIR. Originally complaint was given only against A.1 and based on his confession, the petitioner was arrayed as A.3. and some of the accused were enlarged on statutory bail and some of the accused were released on regular bail and the detention order passed under Act 14/1982, against the petitioner had already been revoked on 23.05.2016 and charge sheet has been filed and taken on file in P.R.C.No.44 of 2016 by the learned Judicial Magistrate, Shengottai. The petitioner is in judicial custody from 03.12.2015.

4.The learned Government Advocate (Crl. side) submitted that due to previous enmity with regard to fishing right in Ananthankulam, all the accused persons conspired together and drove the lorry in a rash and negligent manner and dashed against the share auto, in which the deceased persons along with others were travelling and caused death of the deceased persons and investigation has been completed and charge sheet has been filed and taken on file in P.R.C.No.44 of 2016.

5.Considering the fact that the occurrence tookplace on 10.09.2015 and charge sheet has been filed and taken on file in P.R.C.No.44 of 2016 and the co-accused were already enlarged on bail and the petitioner is in judicial custody from 03.12.2015, this Court is inclined to enlarge the petitioner on bail with certain conditions. Accordingly, the petitioner is ordered to be released on bail, subject to the following conditions:

- (i) the petitioner shall execute 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, Shengottai.
- (ii)the petitioner shall report before the said Court on all future hearings regularly.
- (iii)the petitioner shall not tamper with evidence or witness either during investigation or trial.
- (iv)the petitioner shall not abscond either during investigation or 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]**.

6.The Inspector of Police concerned is directed to send a



compliance report to the office of the learned Government Advocate,
as to whether the petitioner is complying with the condition or not.

sd/-
12/07/2016

/ TRUE COPY /

WEB COPY

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

TO

- 1 THE JUDICIAL MAGISTRATE, SENGOTTAI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, THIRUNELVELI DISTRICT.
- 3 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.
- 4 THE INSPECTOR OF POLICE PULIYARAI POLICE STATION,
TIRUNELVELI DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S C.SUSIKUMAR Advocate SR.No.35698

ORDER
IN
CRL OP(MD) No.11363 of 2016
Date :12/07/2016

SDR/SK-SKN/SAR II/12.07.2016/3P/7C