



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

Wednesday, the Thirtieth day of March Two Thousand Sixteen

PRESENT

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The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.4373 & 5266 of 2016

GANESH @ GANESHKUMAR
(PETITIONER NAME AMENDED AS PER
THE ORDER OF THE COURT DT.28.03.2016
AND MADE IN CRL.MP(MD).NO.2560/16)

... PETITIONER/SOLE ACCUSED
IN BOTH CASES

Vs

STATE REP BY THE INSPECTOR OF POLICE
KOTTAR POLICE STATION, KANYAKUMARI DISTRICT,
KANYAKUMARI DISTRICT. CR. NO.4/2007 ... RESPONDENT/COMPLAINANT
IN BOTH CASES

For Petitioner : MR.AJMAL KHAN SENIOR COUNSEL FOR
M/S AJMAL ASSOCIATES Advocate IN BOTH CASES
For Respondent : MR.A.P.BALASUBRAMANI Govt. Advocate (Crl. Side)
IN BOTH CASES

Prayer in Crl.OP(MD).No.4373/2016:
PETITION FOR BAIL Under Sec. 439 Cr.P.C

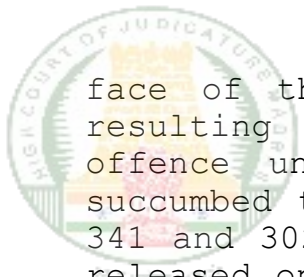
Prayer in CRL OP(MD). 5266/ 2016 :
Petition filed u/s.482 of Cr.P.C to withdraw the case in
S.C.No.66 of 2007 from the file of District court,and transfer the
same to any other District Court with a direction to conclude the
trial in accordance with law pending disposal of the above Criminal
Petition.

ORDER : The Court Made the following order :-

The petitioner, who was arrested and remanded to judicial
custody on 26.11.2015 for the offences punishable under Sections
307 @ 341 and 302 IPC in Crime No.4 of 2007 on the file of the
respondent police, seeks bail.

2. Heard Mr.M.Ajmal Khan, learned senior counsel appearing for
the petitioner and Mr.A.P.Balasubramani, learned Government Advocate
(Criminal Side) appearing for the State.

3. It is the case of the prosecution that on 01.01.2007, on
account of previous enmity, this petitioner had thrown acid on the



face of the de-facto complainant, who is a practising Advocate, resulting in registration of a case in Crime No.4 of 2007 for offence under Section 307 IPC. When the de-facto complainant succumbed to the injuries, the offence was altered from 307 IPC to 341 and 302 IPC. The petitioner was arrested in the year 2007 and released on bail. The police completed the investigation and filed final report in PRC No.3 of 2007 before the Judicial Magistrate, NO.II, Nagercoil and the same was committed to the Court of Sessions, in SC No.66 of 2007 on the file of the Principal District and Sessions Judge, Nagercoil. While so, the petitioner absconded, resulting in a non bailable warrant being issued against him. The petitioner was arrested by the police in execution of the non bailable warrant on 26.11.2015 and he was incarceration since then.

4. Taking into consideration the nature of the allegations against the petitioner and the fact that the petitioner absconded from 2007 onwards, this Court is of the view that it is not a fit case to grant bail to the petitioner. Accordingly, Crl.O.P.(MD) No.4373 of 2016 is dismissed.

5. The petitioner filed a petition in Crl.M.P.No.5266 of 2016 for transferring the case in SC No.66 of 2007 from the file of the Principal District and Sessions Judge, Nagercoil, to any other Court on the ground that the Bar has passed a resolution prohibiting any Advocate from appearing for the petitioner in the trial. This Court is of the view that every accused, however heinous the offence committed, requires a fair trial, which includes his right to be defended by a competent Advocate. The petitioner cannot be denied this right. Under such circumstances, this Court is of the view that it is a fit case to transfer SC No.66 of 2007 from the file of the Principal District and Sessions Judge, Nagercoil, to the file of the Principal District and Sessions Judge, Tirunelveli and the learned Judge shall ensure that the petitioner is given a legal aid, if he has no means to defend himself. The learned Judge, Nagercoil, is directed to transfer all the papers to the file of the Principal District and Sessions Judge, Tirunelveli within a period of two weeks from the date of receipt of a copy of this order.

sd/-

30/03/2016

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



- 1 THE PRINCIPAL DISTRICT & SESSIONS JUDGE, NAGERCOIL
- 2 THE PRINCIPAL DISTRICT & SESSIONS JUDGE, TIRUNELVELI
- 3 THE INSPECTOR OF POLICE
KOTTAR POLICE STATION, KANYAKUMARI DISTRICT,
KANYAKUMARI DISTRICT.
- 4 THE OFFICER INCHARGE
PULAL PRISON, CHENNAI
- 5 THE ADDL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.4373 & 5266 of 2016
Date :30/03/2016

AA/GSV-PM/SAR-I/06.04.2016/3p-6c