



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

Monday, the Eighteenth day of September Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL OP(MD) Nos.12127 and 12128 of 2017

MURUGAN

... PETITIONER / A9
IN CRL OP(MD) No.12127 of 2017

1 MOORTHY @ MANTHIRAMOORTHY

2 SIVASUBBU

... PETITIONER / ACCUSED NO.12 & 8
IN CRL OP(MD) No.12128 of 2017

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
GANGAIKONDAN POLICE STATION,
TIRUNELVELI DISTRICT.
CRIME NO.115/2017

... RESPONDENT / COMPLAINANT
IN BOTH PETITIONS

For Petitioner : M/S.M.JEGADEESH PANDIAN Advocate IN BOTH PETITIONS

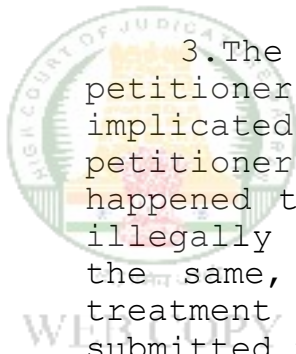
For Respondent : MR.A.RAMAR Additional Public Prosecutor
IN BOTH PETITIONS

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

ORDER : The Court Made the following order :-

The petitioners / A12 & A8 in Crl.O.P.(MD)No.12128 of 2017, who were arrested on 28.07.2017 and the petitioner / A9 in Crl.O.P.(MD)No.12127 of 2017, who was arrested on 14.07.2017 for the offences punishable under Sections 147, 148, 294(b), 307, 302, 506 (ii) of IPC @ 147, 148, 294(b), 307, 302, 506(ii) of IPC r/w 120(B) of IPC in Crime No.115 of 2017 on the file of the respondent police, seek bail.

2.The case of the prosecution is that it is a case of retaliate murder between the accused party and the deceased party and on the date of occurrence, the deceased along with his friend were proceeding in a bike and at that time, the accused party came by car and dashed against the said bike and thereafter, the accused are said to have attacked with deadly weapons and caused the murder of the deceased namely, Alagukrishnan. In the year 2013 the deceased party murdered one Shanmuga perumal and one Pattu and thereafter in the year 2015, two persons were murdered by the deceased party and the accused party. Due to that motive, the present occurrence took place.



3.The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that the petitioners were not present in the scene of occurrence since A9 is happened to be a brother of the prime accused and he was confined illegally by the respondent Police and beaten severely and due to the same, he sustained fracture on his leg and also is taking treatment in Medical College Hospital, Tirunelveli. He further submitted that petitioners are implicated as an accused in this case as per confession given by the A1.

4.The learned Additional Public Prosecutor would submit on instructions that FIR was registered against unnamed accused and during investigation based on the confession of A1, petitioner in CrI.O.P.(MD)No.12127 of 2017 is arrayed as A9 and the petitioners in CrI.O.P.(MD)No.12128 of 2017 are arrayed as A12 & A8 respectively. He further submitted that the accused namely, Pump Arumugam @ Arumugam was granted anticipatory bail by this Court as per order in CrI.O.P.(MD)No.11673 of 2017 on 04.09.2017. He also contents that the specific overt act attributed against A9 is that he is said to have watched the movement of the deceased and the specific overt act attributed against A12 & A8 is that they are said to have shown the iron rod and threatened the deceased however, they have not attacked the deceased. He also contents that totally there are 12 accused in this case and A9 is the brother of A1 and he is having strong previous enmity. He further contents that A7 was arrested and released on bail by this Court as per order in CrI.O.P.(MD)No.12180 of 2017 on 15.09.2017 and remaining accused are arrested and investigation is still pending.

5.Considering the facts and circumstances of the case and considering the fact that motive between the accused party and deceased party, the present case is a retaliation murder and A9 is the brother of A1 and he is said to have watched the movements of the deceased and informed the same to his own brother, this Court is not inclined to grant bail to A9. However, considering the specific overt act attributed against A12 & A8, this Court is inclined to grant bail to the A12 & A8. Accordingly, the petitioners are ordered to be released on bail subject to the following conditions:

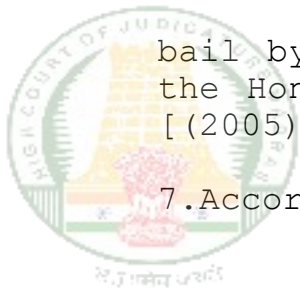
(I) A12 & A8 shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.III, Tirunelveli District.

(ii) A12 & A8 are directed to appear before the learned Judicial Magistrate No.III, Tirunelveli District daily at 10.30 a.m. until further orders;

(iii) A12 & A8 shall not tamper with the evidence or witness either during investigation or trial;

(iv) A12 & A8 shall not abscond either during investigation or trial;

(v) on breach of any of the aforesaid conditions, the Magistrate/Trial Court is entitled to take appropriate action against the A12 & A8 in accordance with law as if the conditions have been imposed and the A12 & A8 released on



bail by the 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].

7. Accordingly, this petition is dismissed in respect of A9.

sd/-
18/09/2017

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/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.III, TIRUNELVELI DISTRICT.
 - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
 - 3 THE SUPERINTENDENT,
CENTRAL PRISON, PALYAMKOTTAI, TIRUNELVELI DISTRICT.
 - 4 THE INSPECTOR OF POLICE,
GANGAIKONDAN POLICE STATION, TIRUNELVELI DISTRICT.
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to M/S.M.JEGADEESH PANDIAN Advocate SR.No.30885

ORDER IN
CRL OP(MD) Nos.12127 and 12128 of 2017
Date :18/09/2017

MKV-PM-PN-SAR 3/18.09.2017/3P-7C