



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

Wednesday, the Fifth day of July Two Thousand Seventeen

PRESENT

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

CRL OP(MD) Nos.8385 and 8429 of 2017

VINOTH

... PETITIONER / ACCUSED NO.16
IN CRL OP(MD) NO.8385 of 2017

MUTHUKUMAR

... PETITIONER / ACCUSED NO.19
IN CRL OP(MD) NO.8429 of 2017

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
UTCHIPULI POLICE STATION,
RAMANATHAPURAM DISTRICT
IN CR.NO.161/2017

... RESPONDENT / COMPLAINANT
IN BOTH PETITIONS

For Petitioner : M/S. M. SUBASH BABU Advocate
IN CRL OP(MD) NO.8385 of 2017

For Petitioner : M/S. P.MUTHUSAMY Advocate
IN CRL OP(MD) NO.8429 of 2017

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

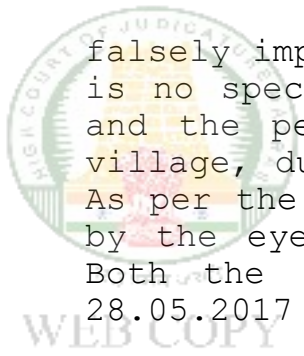
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who are arrayed as accused nos. 16 and 28 were arrested on 31.05.2017 and 28.05.2017 respectively for the alleged offences punishable under Sections 147, 148, 341, 324, 307, 302, 506(ii) of IPC @ 147, 148, 341, 342, 324, 307, 302, 506(ii), 120(b), 109 of IPC in Crime No.161 of 2017 on the file of the respondent police, seek bail.

2. The case of the prosecution is that due to previous motive, the petitioners and other accused unlawfully assembled with deadly weapon, attacked the deceased and caused fatal injuries and as a result of which the deceased died.

3. The learned counsel appearing for the petitioners state that the petitioners are innocent person and they have not committed any offence as alleged by the prosecution and their names has been



falsely implicated in this case. He would further submit that there is no specific overt act attributed against the petitioners herein and the petitioners and other accused are residing in the same village, due to which the petitioners have been roped in this case. As per the FIR, no overt act is attributed against the petitioners by the eye witness, who is the defacto complainant in this case. Both the accused A16 and A28 were arrested on 31.05.2017 and 28.05.2017 respectively and they are in custody.

4. The learned Additional Public Prosecutor appearing for the respondent would submit on instructions that totally there are 39 accused in this case. Out of them, 12 accused in this case were arrested and the petitioners in CrI.O.P(MD).Nos.8385 and 8429 are arrayed as A8 and A19 respectively. He would further submit that FIR in this case registered against 7 named accused and unnamed 20 others, during the investigation.

5. It is admitted that name of the petitioners names are not mentioned in the FIR and as per the confession given by the A1, A8 is said to have attacked the neck of the deceased with Aruval. After, the first accused has cut the neck of the deceased and the A19 is said to have facilitate the occurrence in favour of the accused and he was present at the time of occurrence. The remaining accused are still absconding and the Investigation is also pending.

6. Considering the facts and circumstances of the case and also considering the overt act attributed against the petitioner / A8 as per the confession given by A1 and that the remaining accused are still absconding, this Court is not inclined to grant bail to the petitioner / A8 in CrI.O.P(MD).No.8429 of 2017. Accordingly, the petitioner / A19 in CrI.O.P(MD).No.8429 of 2017 is ordered to be released on bail subject to the following conditions:

(i) the petitioner / A19 in CrI.O.P(MD).No.8429 of 2017 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 Judicial Magistrate No.II, Ramanathapuram.

(ii) the petitioner / A19 is directed to appear before the respondent police daily at 10.30 a.m. until further orders;

(iii) the petitioner / A19 shall not tamper with the evidence or witness either during investigation or trial;

(iv) the petitioner / A19 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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].

Considering the specific overt act attributed against the petitioner / A8 , the Crl.O.P(MD).No.8385 of 2017 is dismissed.

sd/-
05/07/2017

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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.II, RAMANATHAPURAM.
- 2 THE CHIEF JUDICIAL MAGISTRATE, RAMANATHAPURAM DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 4 OFFICER IN CHARGE,
SUB JAIL, RAMANATHAPURAM.
- 5 THE INSPECTOR OF POLICE,
UTCHIPULI POLICE STATION, RAMANATHAPURAM DISTRICT .
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S. P.MUTHUSAMY Advocate SR.No.25877

ORDER
IN
CRL OP(MD) Nos.8385 and 8429 of 2017
Date :05/07/2017

MKV-PM-PN-SAR 2/6.7.2017/3P-8C