



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

Tuesday, the Thirty First day of January Two Thousand Seventeen

PRESENT

WEB COPY

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

CRL OP(MD) No.957 of 2017

M.SATHEESKUMAR

... PETITIONER/ACCUSED No.2

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE,
MARANERI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.8 OF 2017)

... RESPONDENT/COMPLAINANT

FOR PETITIONER : M/S.S.M.ANANTHA MURUGAN, ADVOCATE
FOR RESPONDENT : Mr.P.KANDASAMY, GOVERNMENT ADVOCATE (CRL. SIDE)

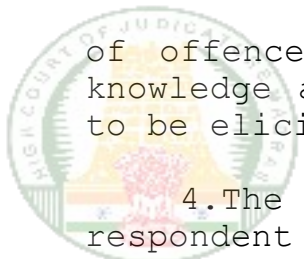
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who was arrested and remanded to judicial custody on 13.01.2017 for the offences punishable under Sections 279 and 304 IPC in Crime No.8 of 2017 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that when the de facto complainant's father was proceeding towards Kakkivadanpatti Village in his two wheeler, the back door of a tipper lorry belonging to A1 driven by the petitioner / A2 has suddenly opened and hit the head of the deceased and as a result, he died.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that the accident took place only due to rash and negligent driving of the petitioner and he has no intention or knowledge for causing death of the deceased. He relied on various decisions of the Hon'ble Supreme Court reported in **2008(5) SCC 730 (B.Nagabhushanam Vs. State of Karnataka), 2008(1) SCC 791 (Naresh Giri Vs. State of M.P.) 2008(14) SCC 479 (Mahadev Prasad Kaushik Vs. State of Uttra Pradesh and another) and 2007(14) SCC 269 (Prabhakaran Vs. State of Kerala)** in respect of commission



of offence under Sections 304-A and 304 IPC. The intention or knowledge as alleged by the learned counsel for the petitioner has to be elicited only at the time of trial alone.

4.The learned Government Advocate (crl.side) appearing for the respondent submitted that totally there are two accused and the petitioner, who is the driver of the tipper lorry, is arrayed as A2 in this case and A1 is the owner of the said tipper lorry, who is absconding. He further submitted that investigation is still pending.

5.In the FIR itself it has been stated that the death is caused only due to sudden and automatic opening of the back door of the tipper lorry and due to which, the door hit the head of the deceased and caused his death.

6.Considering the facts and circumstances of the case and the FIR reveals the fact that the petitioner has driven the lorry in a rash and negligent manner and due to the same, the back door of the lorry automatically and suddenly opened and hit the head of the deceased, this Court is inclined to grant bail to the petitioner subject to certain conditions.

7.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, Sivakasi, and on further condition that:

[a] the petitioner shall report before the respondent Police daily at 10.30 a.m., until further orders.

[b] the petitioner shall not tamper with evidence or witness during trial.

[c] the petitioner shall not abscond during trial.

[d] 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].

sd/-
31/01/2017

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



TO

1. THE JUDICIAL MAGISTRATE, SIVAKASI.
2. THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
3. THE INSPECTOR OF POLICE,
MARANERI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
5. THE OFFICER-IN-CHARGE,
SUB JAIL,
SRIVILLIPUTHUR,
VIRUDHUNAGAR DISTRICT.

+1. CC to M/S.S.M.ANANTHA MURUGAN Advocate SR.No. 5079

ORDER
IN
CRL OP(MD) No.957 of 2017
Date :31/01/2017

NBJ

TE/MK/SAR-I : 31/01/2017 : 3P/7C