



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

Tuesday, the Twentieth day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.2639 of 2018

MARIAPPAN

... PETITIONER / ACCUSED NO.4

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
VALLIYOOR POLICE STATION,
TIRUNELVELI DISTRICT.
IN CR. NO. 128/2010

... RESPONDENT / COMPLAINANT

For Petitioner :M/S.S.MALAIKANI Advocate

For Respondent :MR.K.SUYAMBULINGA BHARATHI Govt. Advocate (Crl.Side)

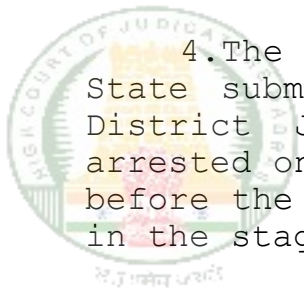
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner /A4, who was arrested and remanded to judicial custody on 19.01.2018 for the offences punishable under Sections 147, 294(b) and 307 I.P.C and Section 3(1)(5) of TNPPDL Act, in Crime No.128 of 2010 , on the file of the respondent police, seeks bail.

2.The case of the prosecution is that in year 2010, the petitioner along with other accused persons had unlawfully assembled and abused the defacto complainant by using filthy language and attempted to murder the defacto complainant. Hence, a case has been registered for the above said offences.

3.The learned counsel appearing for the petitioner submitted after completing investigation, the respondent police filed a charge sheet before the concerned Court and the same has been taken on file as S.C.No.231 of 2012, now pending on the file of the learned I Additional District Judge, Tirunelveli. At the time of trial when the case is posted for examination of witness, on 28.08.2017 due to his sudden ill health, the petitioner unable to appear before the trial Court. Due to that, on the same day itself, the learned I Additional District Judge, Tirunelveli issued the nonailable warrant against the petitioner. Thereafter, he was arrested and remanded to judicial custody on 19.01.2018. He further submitted that the petitioner is an innocent person. He has not committed any offence as alleged by the prosecution. Hence, he prays for bail.



4.The learned Government Advocate(Crl.Side) appearing for the State submitted that NBW was issued by the learned I Additional District Judge, Tirunelveli on 01.07.2017. The petitioner was arrested on 18.01.2018. The other accused in this case have appeared before the Sub Court, Valliyur in S.C.No.231 of 2012 and the case is in the stage of examination of witnesses.

5.The submissions made by the learned counsel appearing on either side are considered. During the time of occurrence, the petitioner and other 5 accused in this case with an intention to kill the defacto complainant and committed this offence. Now, all the accused in this case regularly appeared before the trial Court. As of now, the case is posted for examination of witnesses. The petitioner was arrested and remanded to judicial custody only on 18.01.2018 through NBW. The NBW was issued against the petitioner on 01.07.2017, before that the petitioner is regularly appeared before the concerned Court. The petitioner was not appeared before the concerned Court from 01.07.2017 to 18.01.2018 alone. So, considering the facts and circumstances of the case and also considering the period of incarceration, further custodial interrogation of the petitioner may not be necessary for completing the investigation. Hence, this Court is inclined to grant bail to the petitioner. 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.25,000/- (Rupees Twenty Five Thousand Only) with two sureties, each for a like sum to the satisfaction of the learned I Additional District Judge, Tirunelveli.

(ii)the petitioner is directed to appear before the Concerned Court daily at 10.00 a.m. until further orders;

(iii)the petitioner shall not tamper with the 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 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].

sd/-
20/02/2018

/ TRUE COPY /



TO

- 1 THE I ADDITIONAL DISTRICT JUDGE, TIRUNELVELI.
- 2 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.

- 3 THE INSPECTOR OF POLICE
VALLIYOOR POLICE STATION, TIRUNELVELI DISTRICT.

- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.S.MALAİKANI Advocate SR.No.2713

ORDER

IN

CRL OP(MD) No.2639 of 2018

Date :20/02/2018

MKV-CM-SAR 3/20.2.2018/3P-6C