



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

Tuesday, the Sixth day of March Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.3428 of 2018

M.PRABHAKARAN

... PETITIONER/ACCUSED NO.5

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
NAGAMALAIPUDUKOTTAI POLICE STATION,
MADURAI.
IN CRIME NO.35/2018

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.D.MALAICHAMY, Advocate

For Respondent : M/S.K.SUYAMBULINGA BHARTHI, Govt.Advocate (Crl.Side)

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

ORDER : The Court Made the following order :-

The petitioner/Accused No.5, who was arrested and remanded to judicial custody on 19.01.2018 for the alleged offences punishable under Sections 147, 148, 294(b), 323, 452 and 302 of IPC., in Crime No.35 of 2018, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 14.01.2018, at about 2.00 p.m. when the deceased was returning in his two-wheeler near Mamaram at Pulloothu Road, he requested A1 to take away the two-wheeler, which was parked across the road and in that melee, the deceased slapped A1 and went away. Due to that motive, on the same day, at about 5.00 p.m. A1 along with other accused went to the house of the deceased and assaulted the deceased by using knife and committed the offence of murder. Hence, the case has been registered against the petitioner and other accused persons for the above said crime.

3.The learned counsel representing the petitioner submitted that the petitioner is an innocent person, he has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submitted that the petitioner is in judicial custody from 19.01.2018. Hence, he prays for grant of bail to the petitioner.



4. The learned Government Advocate (Criminal side) appearing for the State on instructions, would submit that totally 8 accused are involved in this case. The petitioner/A5 was arrested on 19.01.2018. He further submitted that preliminary investigation reveals that due to previous enmity, on 14.01.2018, A1 and other accused unlawfully assembled with common intention and during the time of occurrence, at the instigation of A2, A1 assaulted the deceased with knife. The specific overtact against the other accused is that they prevented the witnesses from the rescue of the deceased. According to the prosecution, the investigation is in progress.

5. The submissions made by the learned counsels appearing for either side are considered. It is alleged that during the time of occurrence, due to the previous enmity, the petitioner and other 7 accused assembled with common intention and assaulted the deceased by using Aruval. Thereby, the petitioner and other accused have committed the offence of murder. The specific overtact attributed against this petitioner is that during the time of occurrence, the relatives of the deceased and the people, who are residing in the entire lane tried to rescue the deceased, but the petitioners herein prevented them from rescuing the deceased. Thereby, the submission made by the learned Government Advocate (Criminal side) that the petitioner and other accused may have common intention may be a true one however that has to be decided only at the time of trial. Now, the petitioner is in judicial custody from 19.01.2018. Moreover, the petitioner is the first offender. In the above circumstances, since a portion of the investigation is completed, further custodial interrogation may not be necessary for completing the investigation. Therefore, considering the period of incarceration as well as the fact that the other accused in this case are arrested, this Court is inclined to grant bail to the petitioner with some conditions. Accordingly, the petitioner is ordered to be released on bail, subject to the following conditions:

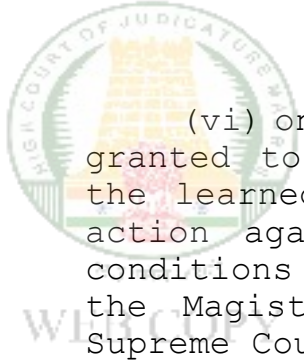
(i) the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only), with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.VI, Madurai;

(ii) the petitioner shall report before the respondent police, daily at 05.00 p.m., until further orders;

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

(iv) the petitioner shall not commit any offence while on bail;

(v) the petitioner shall not abscond either during investigation



(vi) on breach of any of the aforesaid conditions, the bail granted to the petitioner shall stand automatically cancelled and 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 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/-
06/03/2018

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE NO.VI, MADURAI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
3. THE SUPERINTENDENT,CENTRAL PRISON, MADURAI.
4. THE INSPECTOR OF POLICE
NAGAMALAIPUDUKOTTAI POLICE STATION, MADURAI.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.D.MALAICHAMY Advocate SR.No.3493

ORDER
IN
CRL OP(MD) No.3428 of 2018
Date :06/03/2018

MS/PM-PN/SAR.3/06.03.2018/3P.7C