



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

Wednesday, the Eleventh day of April Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD) No.5709 of 2018

SIVARAMAN

... PETITIONER / SOLE ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
KURUMBUR POLICE STATION,
THOOTHUKUDI DISTRICT,
CR.NO.35/2018

... RESPONDENT / COMPLAINANT

For Petitioner : MR.S.KADHIRVELU Senior Counsel for
M/S.K.PRABHU Advocate

For Respondent : MR.A.P.G.OHM CHAIRMA PRABHU
Govt. Advocate (Crl. Side)

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

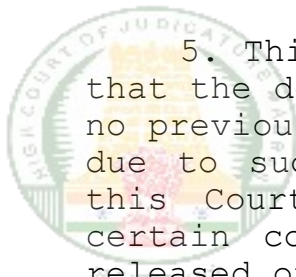
ORDER : The Court Made the following order :-

The petitioner is sole accused. He was arrested and remanded to judicial custody on 22.02.2018 for the offence punishable under Section 302 of IPC, in Crime No.35 of 2018, on the file of the respondent police. He seeks bail.

2.The case of the prosecution is that the deceased is own brother of the petitioner and that usually this petitioner as well as deceased has made quarrel daily among them in the drunken condition. On 22.02.2018 at about 9.30 p.m., the defacto complainant's wife by name Kumutha called over phone to the defacto complainant and informed that the petitioner told to her that he has attacked the deceased and that the defacto complainant went to his cousin brother's home and found that the deceased with injuries. Therefore, based on the complaint lodged by the defacto complainant, a case has been registered against the petitioner.

3.The learned counsel appearing for the petitioner submitted that petitioner is an innocent person and that the petitioner has not committed any offence as alleged by the prosecution and prays for bail in favour of the petitioner.

4.The learned Government Advocate(Criminal Side) has strongly opposed the grant bail to the petitioner on the ground that the petitioner has committed the offence under Section 302 IPC.



5. This Court went through the contents of the FIR. It is seen that the deceased is own brother of the petitioner and that there is no previous enmity with them and that the occurrence took place only due to sudden provocation. Considering the nature of the facts, this Court is inclined to enlarge the petitioner on bail with certain conditions. Accordingly, the petitioner is ordered to be released on bail, subject to the following conditions;

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(i) the petitioner 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 learned Judicial Magistrate, Srivaigundam.

(ii) the petitioner is directed to appear before the respondent police as and when required for interrogation.

(iii) the petitioner shall not abscond.

(iv) 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/-

11/04/2018

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

TO

- 1 THE JUDICIAL MAGISTRATE, SRIVAIGUNDAM
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
- 3 THE SUPERINTENDENT, CENTRAL PRISON,
PALAYAMKOTTAI, TIRUNELVELI DISTRICT.
- 4 THE INSPECTOR OF POLICE
KURUMBUR POLICE STATION, THOOTHUKUDI DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.K.PRABHU Advocate SR.No.5841

ORDER

IN

CRL OP (MD) No.5709 of 2018

Date : 11/04/2018