



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

Tuesday, the Second day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.16352 of 2017

MR.UDHAYA KUMAR @ UDHAYAN

... PETITIONER/ACCUSED No.1

Vs

THE STATE REPRESENTED BY,
THE INSPECTOR OF POLICE,
KALIAKKALAVILAI POLICE STATION,
NAGERCOIL,
KANYAKUMARI DISTRICT.
(CRIME NO.381 OF 2017)

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.T.LAJAPATHI ROY Advocate

For Respondent : MR.K.S.DURAIPANDIAN, Additional Public Prosecutor

For Intervenor : MR.R.MANIMARAN, Advocate

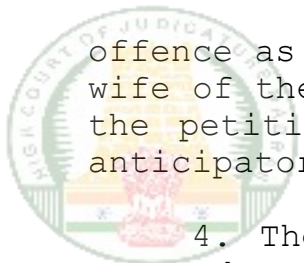
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner/accused No.1, who was arrested and remanded to judicial custody on 06.11.2017 for the alleged offence punishable under Section 302 of IPC., in Crime No.381 of 2017, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 28.10.2017, the deceased, namely, Vishnu was found dead in his residence. Since his wife or his family members did not lodge any complaint, the public were raising suspicion over the death of the deceased. Hence, the Village Administrative Officer lodged the complaint before the respondent police. Based on the Complaint, case has been registered in Crime No.381 of 2017 for the offence under Section 174 Cr.P.C. The first information report was then altered into Section 302 of IPC and the petitioner has been arrayed as A1.

3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has not committed any



offence as alleged by the prosecution. Further he submitted that the wife of the deceased may be the culprit and she was not arrested and the petitioner is falsely implicated in this case and prays for anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the investigation is going on. He further submitted that this occurrence was happened, due to the petitioner's illicit intimacy with the wife of the deceased. The another reason for this occurrence is that the deceased continuously insulted the petitioner/accused in the presence of the other persons, who are witnesses in this case and their Confession statements were also recorded. He further submitted that there are 25 previous cases pending against the petitioner. Hence, he prays for dismissal of this petition.

5. Considering the submission of both side, it seems that the petitioner has been remanded to judicial custody on 06.11.2017. Initially the first information report was registered for the offence under Section 174 Cr.P.C. Subsequently, at the time of investigation only the offence was altered into Section 302 of IPC and the petitioner was arrested and remanded to judicial custody. According to the contention raised by the petitioner, initially, the name of the petitioner is not found in the first information report. There is no bar for the investigation officer to add the additional accused at the time of investigation. Hence, the contention raised by the petitioner is not a ground for allowing this petition. The second contention raised by the petitioner is that the petitioner is in judicial custody from 06.11.2017 so that the further judicial custody is not necessary for completing the investigation. It is true that considering the period of detention, further custody is not required for completing the investigation. However, considering the submission made by the learned Additional Public Prosecutor would reveal that the petitioner is having 25 previous cases. Apart from that his name was added in the rowdy list maintained by the respondent police. He further submitted the list of cases which are registered against the petitioner. On perusal of the list submitted by the learned Additional Public Prosecutor, it revealed that from the year 2010 onwards, continuously the petitioner herein committed the offence, under these circumstances, this Court is not inclined to grant bail to this petitioner. Accordingly, this Criminal Original Petition is dismissed.

sd/-
02/01/2018

/ TRUE COPY /

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



TO

- 1 THE INSPECTOR OF POLICE
KALIAKKALAVILAI POLICE STATION,
NAGERCOIL, KANYAKUMARI DISTRICT.
- 2 THE SUPERINTENDENT ,
CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

- +1. CC to M/S.T.LAJAPATHI ROY Advocate SR.No.29
+1. CC to M/S.R.MANIMARAN, Advocate SR.No.83

ORDER
IN
CRL OP(MD) No.16352 of 2017
Date :02/01/2018

PK/CM-VR/SAR-1/05.01.2018 : 3P/6C