



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

Thursday, the Twentieth day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.21716 of 2018

1 DHARMARAJ @ DHARMA
2 CHELLAPANDI

... PETITIONER / ACCUSED No. 2 & 3

Vs

STATE REP. BY ITS,
INSPECTOR OF POLICE
KARUPPAYURANI POLICE STATION,
MADURAI DISTRICT
IN CR.NO.162/2018

... RESPONDENT / COMPLAINANT

For Petitioners : MR.A.JEYARAM Advocate

For Respondent : MR.S.CHANDRASEKAR, ADDITIONAL PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

The petitioners, who were arrested by the respondent police on 09.10.2018, for the offences punishable under Sections 147, 323 and 302 of IPC., in Crime No.162 of 2018, on the file of the respondent police, seek bail.

2. The case of the prosecution is that a complaint was received from one Mohammed Setu stating that his sister's son Raja Mohammed, on 06.10.2018, at about 7.00 p.m., had taken his bike for going out and at about 9.00 p.m., the brother of deceased Rajamohammed, viz., Samsudin received a phone call from one Deivendran informing that his brother was lying dead in front of 'Vijay Hospital'. Thereafter, the defacto complainant had reached the place and seen Rajamohammed lying with bleeding injuries. Thereafter, on enquiry, the Nurse of the hospital informed to the said Mohammed Setu that two persons had brought the deceased made him sit in the middle of a two wheeler stating that the person had sustained injuries in a road accident. Since there was no Doctor available in the Hospital, they were advised to take the injured to the Government Hospital. But, they had abandoned him in the road and gone away. Thereafter, the defacto complainant had given a complaint to the respondent Police, who initially registered the case under Section 174 of Cr.P.C., and



thereafter, on investigation, it came to light about the petitioners and 6 others involvement in the crime, who had murdered the deceased. Thereafter, the respondent police filed the alteration report on 09.10.2018.

3. The learned counsel appearing for the petitioner would submit that no weapon was used in the occurrence and the deceased had sustained injuries, while he was playing cricket in the play ground, he fainted and thereafter, he was brought to the hospital. Since A2's wife is pregnant, the petitioner's presence is very much essential.

4. The learned Government Advocate (crl.side) appearing for the respondent, on instructions, would submit that due to previous enmity between the accused and the deceased, the deceased was called to a lonely place and there, he was assaulted indiscriminately and drowned him in a well in an inhuman manner and thereafter, the accused taken him to the Vijai hospital, in the guise of person injured in a road accident. The case was initially registered under Section 174 of Cr.P.C., and thereafter, on investigation, the case was altered for the offences under Sections 147, 323 and 302 of IPC. Further, this is the second bail applications filed by the petitioners. The earlier bail application filed by the petitioners was withdrawn on 28.11.2018. There was no change of circumstances. Since, the investigation is in preliminary stage, he strongly opposes for grant of bail to the petitioners.

5. I have heard the learned counsels appearing on either side and perused the materials available on record.

6. The contention of the counsel for the petitioner that A2's wife is pregnant and therefore, the presence of the petitioner is very much necessary, cannot be accepted, since the Mother-Child Protection Card issued by the National Health Mission indicates the expected date of delivery is 02.03.2019. Further, considering the rival submissions made on either side and the manner in which the well planned gruesome murder has been executed by the accused and on perusal of the material, this Court is not inclined to grant bail to the petitioners. Hence, this Criminal Original Petition stands dismissed.

sd/-
20/12/2018

/ TRUE COPY /

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



TO

1 THE INSPECTOR OF POLICE
KARUPPAYURANI POLICE STATION,
MADURAI DISTRICT

2 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

ORDER

IN

CRL OP (MD) No.21716 of 2018

Date :20/12/2018

MSI/JC/SAR-III/25.12.2018-3P/4C