



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

Thursday, the Twenty Third day of August Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice N.ANAND VENKATESH

CRL OP(MD) No.15095 of 2018

M.BALASUNDARAM

... PETITIONER / SOLE ACCUSED

Vs

THE STATE REPRESENTED BY
THE SUB INSPECTOR OF POLICE,
SUCHINDRAM POLICE STATION,
KANYAKUMARI DISTRICT.
Crime No.310/2018

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.T.ARUL Advocate

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

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

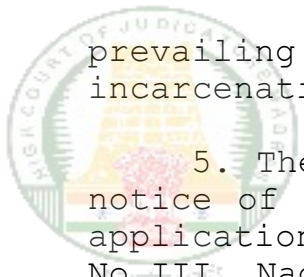
ORDER : The Court Made the following order :-

The petitioner is in judicial custody since 16.08.2018 for the offences punishable under Sections 294(b), 341 and 506(ii) of IPC, in Crime No.310 of 2018 on the file of the respondent police. He seeks bail.

2.The case of the prosecution is that a co-operative election was conducted on 11.08.2018 and in a said election, there was a contest to the post of President and Vice President. There ensued a dispute between the petitioner and the defacto complainant and a reading of the F.I.R, reveals the fact that there was a oral threat and an attempt to attack the defacto complainant.

3.The learned counsel appearing for the petitioner would submit that the petitioner was arrested and remanded to judicial custody on 16.08.2018. The age of the petitioner is 54 years and the defacto complainant is an advocate and a member of Nagercoil Bar Association, due to which, the petitioner was not even allowed to engage a legal practitioner from Nagercoil to move the bail for him.

4. The learned counsel further submitted that the defacto complainant and his associates prevented the petitioner's wife to appear before the court and move the bail for the petitioner. The learned counsel further submitted that a hostile atmosphere is



prevailing in the court and the petitioner has been suffering incarceration for the last 7 days.

5. The learned counsel for the petitioner also brought to the notice of this Court, that wife of the petitioner has moved a bail application on 16.08.2018 before the learned Judicial Magistrate No.III, Nagercoil and the same is being adjourned from time to time and the petitioner's wife is facing very serious threat and she is forced to withdraw the bail application. Due to such hostile atmosphere, the petitioner's wife is also not in a position to appear before the Court in the bail petition. Therefore, the learned counsel for the petitioner would submit that the petitioner is neither having any legal assistance in that Court nor is the petitioner's wife permitted to appear in the Court to move the bail petition. Therefore, left with no other option, the petitioner has directly approached this Court seeking for bail.

6. Per contra, Mr.A.P.G.Ohm Chairmaprabhu, learned Government Advocate appearing for the respondent police would submit that the incident was only a wordy quarrel and an attempt to attack the defacto complainant and nobody sustained injury in the said incident.

7. Bail is rule and jail is an exception, is a settled principle of law. Here is a case, where the personal liberty of the petitioner, which is safeguarded under Article 21 of Constitution of India, is in peril and the petitioner is inside jail for a petty offence for more than 7 days and he has been prevented from having legal assistance to move a bail petition and his wife is also prevented from moving bail petition. Effectively, the petitioner has been prevented from taking recourse to a right that has been provided to him under the code of Criminal Procedure. An extraordinary situation is prevailing in this case and this is the reason, a bail petition has been directly filed before this Court. Procedure is after all a handmaid to justice and a procedure can never come in the way, where the liberty of a person is in question and an extraordinary situation always warrants an extraordinary solution.

8.This Court is totally satisfied with the reason as to why, the bail petition is directly moved before this Court. This Court finds sufficient grounds to grant bail to the petitioner.

9.Considering the facts and circumstances of this case, 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.5,000/- (Rupees Five Thousand Only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate,



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

sd/-
23/08/2018

/ TRUE COPY /

WEB COPY

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

TO

1. THE JUDICIAL MAGISTRATE, VALLIYOOR.
 2. THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
 3. THE SUB INSPECTOR OF POLICE,
SUCHINDRAM POLICE STATION, KANYAKUMARI DISTRICT.
 4. THE OFFICER INCHARGE,
DISTRICT JAIL, NAGERCOIL.
 5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to Mr.T.ARUL Advocate SR.No.16002

ORDER
IN
CRL OP(MD) No.15095 of 2018
Date :23/08/2018

TK/PN/SAR.2/23.08.2018/2P-7C