



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

(Criminal Jurisdiction)

Date : 04/06/2019

WEB COPY

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.6803 of 2019

M.Sathish Kumar

... Petitioner/Accused No.2

Vs

The Inspector of Police,
K.Pudur Police Station,
Madurai.

(Crime No.112/2019)

... Respondent/Complainant

For Petitioner : Mr.D.Sadiq Raja,
Advocate.

For Respondent : Mr.V.Neelakandan,
Govt.Advocate (Crl.Side).

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

ORDER : The Court Made the following order :-

This petition has been filed by the Accused seeking bail for the alleged offence punishable under Sections 147, 148, 302 and 506 (ii) of I.P.C.

2.Heard both sides.

3.The learned counsel appearing for the petitioner has submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that even in the F.I.R, the petitioner's name has not been mentioned and it has been simply stated that the Accused No.1 and four known persons attacked the deceased. He further submitted that based on the confession given by the first accused, the petitioner herein has been implicated in this case and hence, the petitioner had surrendered before the learned Judicial Magistrate No.VI, Madurai, on 12.03.2019. He further submitted that subsequently, the respondent police took the petitioner for police custody from 21.03.2019 to 25.03.2019 and enquired the petitioner. But, they did not recover any incriminating substances from the petitioner. He further submitted that the respondent has not taken any steps for conducting an identification parade also. He also submitted that the petitioner is in custody for the past 85 days and by this time, the



investigation would have been completed and therefore, he prayed to grant bail to the petitioner.

4. Per contra, the learned Public Prosecutor has submitted that even though the name of the petitioner has not been specifically mentioned in the F.I.R, after registering the F.I.R, during the investigation, the first accused was arrested and he gave a confession, implicating the petitioner herein and three others. Based on the same, the petitioner has been arrayed as accused No.2. He also submitted that investigation is still pending and hence, he strongly opposed this petition. However, he fairly conceded that no material objects recovered from the petitioner and no identification parade was also conducted.

5. Taking into consideration of the fact that the name of the petitioner is not found place in the F.I.R and also the fact that no incriminating substances were recovered from the petitioner and also the fact that no identification parade was also conducted and also the fact that the petitioner is in custody for the past 85 days, this Court is inclined to grant bail by imposing conditions.

[a] the petitioner is ordered to be released on bail on his executing 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 Judicial Magistrate No.VI, Madurai;

[b] the petitioner shall report before the respondent police daily at 10.00.a.m for a period of one month and thereafter, as and when required for the interrogation.

[c] the petitioner shall not abscond either during investigation or trial.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] On breach of any of the aforesaid conditions, 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 learned 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].

[e] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

04/06/2019

/ 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,
K.PUDUR POLICE STATION, MADURAI.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to Mr.D.SADIQ RAJA Advocate SR.No.9129

ORDER

IN

CRL OP (MD) No.6803 of 2019

Date :04/06/2019

MS/VR/SAR-2/04.06.2019/3P.7C