

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

Thursday, the Sixteenth day of May Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice B.PUGALENDHI

CRL OP (MD) No.7143 of 2019

PALRAJ

... PETITIONER/ACCUSED (A6)

Vs

STATE REPRESENTED BY,
THE INSPECTOR OF POLICE,
VADAMADURAI POLICE STATION,
IN CRIME NO. 17 OF 2019

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.C.S.RAVICHANDRAN, Advocate

For Respondent : MR.K.K.RAMAKRISHNAN, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioner / A6, who was arrested and remanded to judicial custody on 22.04.2019, for the offences punishable under Section 302 I.P.C. @ Sections 147, 148 & 302 I.P.C., in Crime No.17 of 2019, on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that Murugan (A1) approached the *de facto* complainant stating that he is having a precious stone (நாகமணி கல்), which is having certain special qualities, and it can be sold to rich people, he made demonstration and also induced the *de facto* complainant to be a partner for the said business. The *de facto* complainant satisfied with the demonstration and parted with a sum of Rs.50,000/- as a token advance and the first accused has also given the precious stone to the *de facto* complainant. But, on the same day, with some henchmen, he has taken back the stone. Subsequently, after a month, the first accused again approached the *de facto* complainant stating that the token advance was not sufficient and demanded further sum of Rs.1,00,000/-, for which, the *de facto* complainant refused to pay the further sum and insisted the first accused to repay the amount, which he has paid. The first accused invited the *de facto* complainant to his relative's garden for demonstration. Accordingly, on 10.01.2019, the *de facto*

complainant went along with his friend one N.S.Sivakumar (deceased) for demonstration. While the demonstration was being going on, Sivakumar suggested the *de facto* complainant to get back the money and return the stone to the first accused. Angered over the same, the first accused and his relatives assaulted the *de facto* complainant's friend Sivakumar and the first accused had taken out a knife from his waist and stabbed on the back of the deceased and fled away with the precious stone.

3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and has not committed any offence as alleged by the prosecution. Furthermore, the petitioner / A6 is in incarceration from 22.04.2019.

4. The learned counsel appearing for the petitioner further submitted that the co-accused have been enlarged on bail by this Court.

5. The learned Government Advocate (Criminal Side) submitted that the substantial portion of the investigation has been completed and he opposed the grant of bail to the petitioner.

6. This case was originally registered against Murugan and Karanthan. The petitioner herein has been implicated as accused pursuant to the confession statement of the co-accused as if he caught hold the deceased at the time of the commission of the offence. But, this is a case of eye-witness, where, the *de facto* complainant, in his complaint, has stated that on the instigation of the other accused, the first accused Murugan stabbed the deceased on his back with a knife. The petitioner has been arrested and remanded to judicial custody on 22.04.2019. The co-accused, namely, A2, A3 and A5 have been enlarged on bail by this Court.

7. Considering the nature of the offence and the fact that the name of the petitioner does not find place in the F.I.R., and even according to the *de facto* complainant, it is the first accused Murugan stabbed the deceased on his back on the instigation of the other accused and also considering the fact that the substantial portion of the investigation has been completed, this Court is of the view that this is a fit case to grant bail to the petitioner / A6. Accordingly, he is ordered to be released on bail, subject to the following conditions:

(i) the petitioner / A6 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, Vendasandur, Dindigul.

(ii) the petitioner / A6 shall report before the respondent police daily twice at 10.30 a.m., and 04.30 p.m., until further orders.

- (iii) the petitioner / A6 shall not tamper with evidence or witness either during investigation or trial.
- (iv) the petitioner / A6 shall co-operate for the investigation and the trial. The petitioner / A6 shall not abscond either during investigation or trial and in the event of the petitioner / A6 absconds, the respondent Police shall register a case as provided under Section 229-A I.P.C., and
- (v) in the event of breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner / A6 as per the principles laid down by the Honourable Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

sd/-
16/05/2019

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE,
VEDASANDUR, DINDIGUL DISTRICT
 2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT
 3. THE INSPECTOR OF POLICE
VADAMADURAI POLICE STATION, DINDIGUL DISTRICT
 4. THE SUPRINTENDENT, CENTRAL PRISON, DINDIGUL
 5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to MR.C.S.RAVICHANDRAN, Advocate SR.No.8668

ORDER
IN
CRL OP(MD) No.7143 of 2019
Date :16/05/2019 (2/2)

STS/TM/KRK
PK/PN/SAR-3/20.05.2019 : 3P/7C