



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.7235 of 2019

1 M.CHELLAKUNJU
2 P.PALRAJ

... PETITIONERS/ACCUSED No.4 & 6

Vs

STATE REP.BY,
THE INSPECTOR OF POLICE,
VADAMADURAI POLICE STATION,
DINDIGUL DISTRICT
CRIME NO.17/2019)

... RESPONDENT/COMPLAINANT

For Petitioners : MR.J.S.MURALI, Advocate

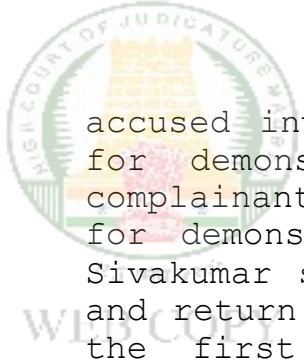
For Respondent : MR.K.K.RAMAKRISHNAN, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioners / A4 & A6, who were arrested and remanded to judicial custody on 24.04.2019 and 22.04.2019 respectively, 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, seek bail.

2. The case of the prosecution is that Murugan (A1) approached the *de facto* complainant stating that he is having a precious stone (ehfkzp fy;), 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 petitioners submitted that the petitioners are innocent persons and have not committed any offence as alleged by the prosecution. Furthermore, the petitioners / A4 and A6 are in incarceration from 24.04.2019 and 22.04.2019 respectively.

4. The learned counsel appearing for the petitioners further submitted that the co-accused have been enlarged on bail by this Court. However, the learned counsel made an endorsement indicating that he is withdrawing the criminal original petition as against the second petitioner / A6.

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 petitioners.

6. In view of the endorsement made by the learned counsel for the petitioners, the criminal original petition is dismissed as not pressed as against the second petitioner / A6.

7. This case was originally registered against Murugan and Karanthan. The first 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 first petitioner has been arrested and remanded to judicial custody on 24.04.2019. The co-accused, namely, A2, A3 and A5 have been enlarged on bail by this Court.

8. Considering the nature of the offence and the fact that the name of the first 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 first petitioner / A4. Accordingly, he is ordered to be released on bail, subject to the following conditions:



(i) the first petitioner / A4 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.

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(ii) the first petitioner / A4 shall report before the respondent police daily twice at 10.30 a.m., and 04.30 p.m., until further orders.

(iii) the first petitioner / A4 shall not tamper with evidence or witness either during investigation or trial.

(iv) the first petitioner / A4 shall co-operate for the investigation and the trial. The first petitioner / A4 shall not abscond either during investigation or trial and in the event of the first petitioner / A4 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 first 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]**.

9. This criminal original petition is dismissed as not pressed as against the second petitioner / A6.

sd/-
16/05/2019

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

TO

1. THE JUDICIAL MAGISTRATE, VEDASANDUR

2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT



3. THE INSPECTOR OF POLICE
VADAMADURAI POLICE STATION,
DINDIGUL DISTRICT

4. THE OFFICER INCHARGE,
DINDIGUL PRISON, DINDIGUL

5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.J.S.MURALI Advocate SR.No.8473

ORDER

IN

CRL OP (MD) No.7235 of 2019

Date :16/05/2019 (1/2)

STS/TM/KRK

PK/PN/SAR-3/20.05.2019 : 4P/7C