



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

Tuesday, the Twenty Second day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.813 of 2019

SATHIYA KUMAR

... PETITIONER/ ACCUSED No.1

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE
RAJAPALAYAM SOUTH POLICE STATION,
RAJAPALAYAM, VIRUDHUNAGAR DISTRICT.
Crime No.5/2016

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.A.THIRUVADI KUMAR Advocate

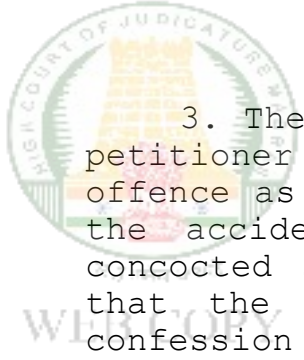
For Respondent : Mr.K.SUYAMBULINGA BHARATHI
Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner was arrested and remanded to judicial custody since 07.12.2018 for the offences punishable under Section 174 Cr.P.C @ 302 IPC in Crime No.5 of 2016, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on a complaint given by Chokkathayee, the wife of the deceased, a case was registered in Crime No.5 of 2016, before the respondent Police stating that on 02.01.2016, at about 11.00 p.m., when her husband was descending from the stairs, he fell down and sustained injuries. Hearing her scream, the relatives rushed to the spot and took the injured to the hospital, where he was declared dead. Initially, the case was registered by the respondent Police, for an offence under Section 174 Cr.P.C., and after investigation, filed the report, as 'Action Dropped'. Thereafter, Radhakrishna Raja, brother of deceased Jeganatha Raja, had sought for transfer of investigation and made a representation to the Superintendent of Police and filed a petition before this Court and thereafter, the case was transferred to the Inspector of Police, District Crime Branch, Virudhunagar District.



3. The learned counsel for the petitioner would submit that the petitioner has been falsely implicated and he has not committed any offence as alleged by the prosecution. He would further submit that the accidental fall of the deceased is being converted and a concocted story is put by the prosecution. He would also submit that the petitioner has been implicated on the basis of the confession which is recorded nearly after two years.

4. The learned Government Advocate(Crl.Side) would submit that the major part of the investigation is over and he would also submit that co-accused in this case were granted anticipatory bail by this court in Crl.O.P(MD) Nos.18986 and 19001 of 2018 on 11.01.2019.

5. Considering the facts and circumstances of the case and also considering the period of incarceration of the petitioner, this Court is inclined to grant bail to the petitioner.

6. Accordingly, the petitioner is ordered to be released on bail on their 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 learned Judicial Magistrate, Rajapalayam and on further condition that:

[a] the petitioner shall report before the respondent police daily at 10.30 a.m until further orders.

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

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

[d] 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/-
22/01/2019

/ TRUE COPY /



TO

1. THE JUDICIAL MAGISTRATE, RAJAPALAYAM.
2. THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHOOR.
3. THE INSPECTOR OF POLICE,
RAJAPALAYAM SOUTH POLICE STATION,
RAJAPALAYAM, VIRUDHUNAGAR DISTRICT.
4. THE OFFICER INCHARGE,
DISTRICT JAIL, VIRUDHUNAGAR.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.A.THIRUVADI KUMAR Advocate SR.No.1079

ORDER
IN
CRL OP (MD) No.813 of 2019
Date :22/01/2019

TK/VR/SAR-4/22.01.2019/3P/7C