



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 16/08/2019

WEB COPY

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) . No.11383 of 2019

1.Kannan

2.Devaraj @ Balu

... Petitioners/Accused
NO.1 and 6

Vs

State rep.by
The Inspector of Police,
Puthanatham Police Station,
Trichy District
Crime No. 90 of 2019

... Respondent/Complainant

For PetitionerS : M/s.A.Joel Paul Antony,
Advocate.

For Respondent : Mr.Ohma Chairma Prabhu,
Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Bail in Crime No. 90 of 2019 on the file of the respondent police

ORDER:

This petition has been filed by the petitioners/A1 & 6 seeking bail for the alleged offence punishable under Section 174 (3) of Cr.P.C. @ 306 of I.P.C , in Crime No.90 of 2019.

2.Heard both sides.

3.The learned counsel appearing for the petitioners has submitted that the First Information Report was originally registered under Section 174 (3) of Cr.P.C. and subsequently, it was altered into Section 306 of I.P.C. He further submitted that in the F.I.R itself it is stated that the deceased was having illegal



contact with the wife of the first petitioner and hence, on 02.07.2019 at about 10.00 p.m, all the accused persons have attacked the deceased and he ran away from the scene of occurrence. He further submitted that in the FIR it is further stated that on 04.07.2019 at 10.00 am, the body of the deceased was found in the well belongs to one Chidambaram of the same village and inquest has been conducted and thereafter the case has been altered into under Section 306 IPC. He further submitted that the petitioners have not committed any offence and even the allegations made in the FIR are taken as true at the face value, the provisions of Section 306 IPC will not attract because the petitioners have not abetted the deceased to commit suicide. He further submitted that the petitioners were surrendered before the Judicial Magistrate, Manapparai on 06.07.2019 and they were remanded to judicial custody. He further submitted that subsequently, the respondent by filing application before the concerned Judicial Magistrate, has taken the petitioners for police custody, but nothing has been recovered from them. He further submitted that by this time the investigation might have been completed therefore, he prayed for grant of bail to the petitioners.

4.Per contra, the learned Government Advocate has submitted that since the deceased was having illegal contact with the wife of the first petitioner, on 02.07.2019 at about 10.00 p.m all the accused persons attacked the deceased and not bearing with the same, the deceased ran away from the said place and subsequently, his body was found on 04.07.2019 at 10.00 am in the well which belongs to one Chidambaram in the same village. He further submitted that the post-mortem was held on the body of the deceased on 05.07.2019 and the Doctor opined that the deceased would have died three to four days prior to autopsy and hence the deceased would have died on 02.07.2019 itself. He further submitted that the visara report not yet received and hence, the investigation is not yet completed, and therefore, he opposed this petition.

5.A perusal of Case Diary file would show that on 05.07.2019, the respondent has conducted inquest on the body of the deceased in the presence of the Panchayators and the witnesses and came to the conclusion that the deceased committed suicide.

6.Taking into consideration of the aforesaid fact and also the fact that admittedly the deceased was having illegal contact with the first petitioner's wife and as per the FIR, the accused persons have attacked the deceased on 02.07.2019 at 10.00 pm and thereafter the deceased has committed suicide and also the submissions made by the learned counsel for the petitioners that even if the allegations made in the FIR are taken as true at the face value, the provisions of Section 306 IPC may not attract, and also the fact that the petitioners are in custody from 06.07.2019, this Court is inclined to grant bail to the petitioners by imposing conditions.



[a] the petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties each for a like sum to the satisfaction of the Judicial Magistrate, Manapparai, Trichy District.

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

[d] the petitioners 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 petitioners 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].

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

sd/-
16/08/2019

/ TRUE COPY /

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

TO

- 1.THE JUDICIAL MAGISTRATE,
MANAPPARAI, TRICHY DISTRICT.
- 2.DO-THROUGH :THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.
- 3.THE INSPECTOR OF POLICE,
PUTHANATHAM POLICE STATION,TRICHY DISTRICT.
- 4.THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
- 5.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr. A. JOEL PAUL ANTONY Advocate SR.No.13594

ORDER
IN
CRL OP(MD) No.11383 of 2019
Date :16/08/2019

TK/VR/SAR.3/16.08.2019/3P/7C