

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 16/08/2019

PRESENT

The Hon'ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.11445 of 2019

1.B.Sasi Kumar
2.Seeranjiviee

... Petitioners/A9 and A5

Vs

The State rep.by
The Inspector of Police,
Perungudi Police Station,
Madurai District.
Crime No.130 of 2019

... Respondent/Complainant

For Petitioner : M/s.S.Sivaprakash,
Advocate.

For Respondent : Mr.A.P.G.Ohm Chairma Prabhu,
Government Advocate (Crl.Side)

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

PRAYER :-

for Bail in Crime No.130 of 2019 on the file of the Respondent Police

ORDER : The Court Made the following order :-

This petition has been filed by the petitioners/ Accused No.5 and 9 seeking bail for the alleged offence under Sections 147, 148, 448, 294(b), 323 and 506(ii) of IPC r/w Section 4 of TNWH Act and 3 of TNPPDL Act, in Crime No.130 of 2019.

2.Heard both sides

3.The learned counsel appearing for the petitioners has submitted that the petitioners are A9 and A5 respectively and their names have not been mentioned in the FIR. He further submitted that in the FIR, it is stated that along with A1 five unknown persons came to the house of the defacto complainant and caused damage to the household articles but, after arresting of the petitioners, no identification parade has been conducted. He further submitted that

based on the confession statement said to have been given by A1 before the police, these petitioners have been arrayed as accused. He further submitted that the petitioners have not committed any offence and they were arrested and remanded to judicial custody on 21.07.2019 and from that date onwards they are in custody and therefore, he prayed to grant bail to the petitioners.

4.Per contra, the learned Government Advocate(Crl.side) appearing for the respondent police has submitted that due to property dispute between A1 and her sister(defacto complainant), on 13.07.2019 at 11.30 p.m during night hours totally nine persons trespassed into the house of the defacto complainant and caused damage to the household articles, two wheelers and car and total damage caused by them would amount Rs.3,52,935/-. He further submitted that even though the name of the petitioners have not been mentioned in the FIR, during investigation, A1 was arrested and A1 gave confession voluntarily and in the said confession, he has categorically stated that these petitioners also participated in the aforesaid crime and only based on the said statement, the petitioners herein have been arrested and remanded to judicial custody on 21.07.2019. He further submitted that since the value of the property damaged by the accused is very huge, he strongly opposed this petition.

5.Taking into consideration of the fact that in the FIR, the name of the petitioners not mentioned and in such case after arresting of the petitioners, the respondent should have conducted identification parade but, the respondent has not conducted any identification parade and also the fact that only based on the confession said to have been given by A1, these petitioners have been arrested and remanded to judicial custody on 22.07.2019 and nothing has been recovered from the petitioners, 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 Additional Mahila Court (Judicial Magistrate Level), Madurai.

[b] the petitioners shall report before the Respondent Police, daily at 10.30 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 petitioners 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 JUDGE, ADDITIONAL MAHILA COURT
(JUDICIAL MAGISTRATE LEVEL), MADURAI.
- 2.THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
- 3.THE INSPECTOR OF POLICE,
PERUNGUDI POLICE STATION,
MADURAI DISTRICT.
- 4.THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 5.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.S.SIVAPRAKASH Advocate SR.No.13611

ORDER

IN

CRL OP(MD) No.11445 of 2019

Date :16/08/2019

vsg

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