

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/08/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.11561 of 2019

Muthupandiyan

... Petitioner/Accused No.2

Vs

State Rep.by
The Inspector of Police,
Kattuputhur Police Station,
Trichy District.
(Crime No.90 of 2019)

... Respondent/Complainant

For Petitioner : M/s.S.Sarvagan Prabhu,
Advocate.

For Respondent : Mr.V.Neelakandan,
Additional Public Prosecutor

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

PRAYER :-

for Bail in Crime No.90 of 2019 on the file of the Respondent Police.

ORDER : The Court Made the following order :-

This petition has been filed by the petitioner/ accused no.2 seeking bail for the alleged offence under Section 302 of IPC.

2. Heard both sides

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in the above case. He further submitted that A1 is the wife of the defacto complainant and the deceased is the five years old female child of A1 and the defacto complainant. He further submitted that the petitioner and A1 were working in the same college as professors. He further submitted that already there was a mis-understanding between A1 and the defacto complainant and the defacto complainant has filed H.M.O.P.No. 300 of 2018 on the file of the Family Court, Dindigul seeking divorce. He further submitted that as per the First

Information Report, the defacto complainant is not an eyewitness and only an assumption he lodged a complaint. He further submitted that the petitioner is not having any illegal intimacy with A1. He further submitted that since already the defacto complainant is having grievance with his wife(A1) he gave a false complaint implicating the petitioner also as accused. He further submitted that there is no evidence to show that the petitioner has committed the murder of the deceased /child. He further submitted that the petitioner herein was arrested and remanded to judicial custody on 21.05.2019 and he is custody for the past 92 days. Therefore he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner and A1 were working as Professors in the same college and they are having illegal intimacy. He further submitted that already A1 separated from her husband (Defacto complainant) and she has been living with the petitioner at Kattuputhur along with her five years old female child. He further submitted that since both the accused felt that the said child is hindrance for them, A1 has attacked the child with wooden reaper and A2(petitioner herein) attacked the child with PVC pipe and committed the murder. He further submitted that both the accused were arrested and during interrogation the petitioner herein voluntarily gave a confession statement and based on the said confession statement, the PVC pipe said to have been used by the petitioner for attacking the deceased has been recovered. He further submitted that the investigation is almost completed and charge sheet has also been filed before the concerned court and the said charge sheet has been returned by pointing out certain defects and the same will be represented within a short period. He further submitted that if the petitioner is released on bail, he may tamper the witness. Hence he strongly opposed to grant bail to the petitioner.

5. A perusal of the First Information Report shows that the defacto complainant is not an eyewitness and only based on the previous conduct of the accused persons, it appears that he has lodged a complaint. The prosecution is relying upon the confession statement of the accused persons which is said to have been given before the police and also relying upon the recovery which has been made under Section 27 of the Evidence Act. Further it appears that the prosecution case is mainly based upon circumstantial evidence.

6. Taking into consideration of the aforesaid facts and also the fact that the petitioner is in custody for the past 92 days and also the fact that the investigation is almost completed and also the fact that the petitioner is working as a professor and if he is released on bail he may not abscond, this Court is inclined to grant bail to the petitioner by imposing conditions:

[a] the petitioner is ordered to be released on bail on his 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 Judicial Magistrate, Musiri, Tiruchirapalli

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

[d] the petitioner 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 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].

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

sd/-
22/08/2019

/ TRUE COPY /

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

TO

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

+1. CC to M/S.S.SARVAGAN PRABHU Advocate SR.No.13942

ORDER IN
CRL OP(MD) No.11561 of 2019
Date :22/08/2019

MS/VR/SAR-3/22.08.2019/3P.7C