



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 04/08/2020

WEB COPY

PRESENT

The Hon'ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) . No.8129 of 2020

S.Manikandan

... Petitioner/Accused No.2

Vs

The State Rep. by
The Inspector of Police,
Boothapandy Police Station,
Kanyakumari District.
(Crime No. 219 of 2020).

... Respondent/Complainant

For Petitioner : Mr.S.Sureshkumar, Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

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

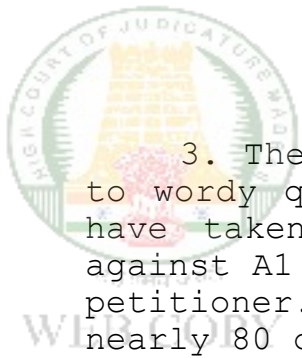
PRAYER :-

For a Bail in Crime No. 219 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner herein was arrested and remanded to judicial custody on 18.05.2020 for the alleged offences under Sections 294 (b), 323,324,302,341 and 506(ii) of IPC.

2. The case of the prosecution is that the defacto complainant is the brother-in-law of A1 and he got married to the sister of the defacto complainant and they had two childrens. Thereafter the defacto complainant's sister left A1 and living with somebody else along with children. Prior to the date of occurrence A1 in this case went to the house of the defacto complainant and asked to hand over the children to him, since it was refused there was a quarrel and at that time the defacto complainant said to have attacked A1 and caused injuries, in retaliation to the same on the next day A1 along with other accused persons went to the house of the defacto complainant and attacked the defacto complainant and his mother, due to which the defacto complainant sustained injuries and his mother died. Hence the complaint.



3. The learned counsel for the petitioner would submit that due to wordy quarrel in the family dispute the occurrence is said to have taken place and the specific overt act is attributed as against A1 only and there is no specific allegation as against this petitioner. He would also submit that the petitioner is jail for nearly 80 days, hence he may be granted bail.

4. The learned Government Advocate(Crl.Side) would submit that it is a pre meditated murder in retaliation to the earlier occurrence. All the petitioners armed with weapon went to the house of the defacto complainant and attacked defacto complainant and his mother and caused her death.

5. From the perusal of the records it is seen that prior to the occurrence earlier there was a quarrel between the family members in which the defacto complainant stated to have attacked A1 in this case and due to that there was a quarrel on the date of occurrence in which A1 is said to have attacked the defacto complainant with spade in his head and the petitioner herein is said to have attacked the defacto complainant with wooden log and also kicked the deceased.

6. Taking note of the above facts and circumstances of the case and also taking into consideration the fact that the occurrence would have taken place due to a wordy quarrel between the family members and only A1 in this case is said to have attacked the deceased with spade, so far this petitioner is concerned he attacked the defacto complainant with wooden log and also only kicked the deceased and also taking into consideration the period of custody also the fact that investigation is almost completed, this Court is inclined to grant bail to the petitioner subject to the following conditions:

7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Boothapandi, Nagercoil, Kanyakumari District

i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity

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

iii) the petitioner shall not tamper with evidence or witness.



iv) the petitioner shall not abscond during trial.

v) 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].

vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE,
BOOTHAPANDI, NAGERCOIL,
KANYAKUMARI DISTRICT.
2. -DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE INSPECTOR OF POLICE,
BOOTHAPANDY POLICE STATION,
KANYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
5. THE OFFICER INCHARGE,
SUB JAIL, NAGERCOIL.

ORDER

IN

CRL OP(MD) No.8129 of 2020

Date :04/08/2020

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<https://hcservices.mca.gov.in/hcservices/> 04/08/2020 : 3P/6C