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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 14/08/2020

PRESENT

The Hon'ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) . No.8274 of 2020

Asaraf Ali

... Petitioner/Accused No.1

Vs

The State Rep. by
The Inspector of Police,
Thirukokarnam Police Station,
Pudukkottai District,
Cr.No.426 of 2020.

... Respondent/Complainant

For Petitioner : M/s.D.Rameshkumar,
Advocate.

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

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

PRAYER :-

For Bail in Crime No.426 of 2020 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioner/A1 herein was arrested and remanded to judicial custody on 18.05.2020 for the alleged offences under Sections 109,449 and 302 of IPC.

2. The case of the prosecution is that there was a previous enmity between A2 and another group of people, alleging that the deceased was supporting the rival group, on 18.05.2020 at about 5.00 hrs there was a quarrel between deceased and A1. At that time A2 herein has pushed the deceased down and he suffered injuries in the incident and thereafter A1 in this case attacked the deceased with wooden stool near the eye brow and caused injuries, thereafter they left the place. Subsequently the deceased died on 19.05.2020 at about 10.00 a.m., Hence the criminal case has been registered.



3. The learned counsel for the petitioner would submit that the petitioner has no active role in the said incident and during a wordy quarrel between the deceased and A2, the petitioner herein only pushed the deceased and even as per the First Information Report, A2 attacked the deceased with wooden stool and caused minor injuries and he was not taken to hospital, subsequently he died in his home. He would also submit that the petitioner is in incarceration for more than 80 days and A2 in this case was released on bail by this Court in Crl.O.P(MD) No.6989 of 2020 on 13.07.2020, hence he may be released on bail.

4. The learned Government Advocate(Crl.Side) would submit that both A1 and A2 in this case attacked the deceased and caused injuries. Hence he strongly opposed to grant bail to the petitioner. He would also submit that A2 in this case was released on bail by this Court in Crl.O.P(MD) No.6989 of 2020 on 13.07.2020.

5. Taking note of the above facts and circumstances of the case and also taking note of the fact that during the wordy quarrel in a sudden provocation the occurrence would have taken place and also considering the period of incarceration and also the fact that A2 in this case was released on bail by this Court, this Court is inclined to grant bail to the petitioner subject to the following conditions:

6. 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 No.II, Aranthangi, Pudukottai

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.R.Shaji vs. State of Kerala [(2005)AIR SCW 5560].



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

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sd/-
14/08/2020

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/ /2020
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 No.II,
ARANTHANGI, PUDUKOTTAI DISTRICT.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
PUDUKKOTTAI DISTRICT.
3. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
4. THE INSPECTOR OF POLICE,
THIRUKOKARNAM POLICE STATION,
PUDUKKOTTAI DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.8274 of 2020
Date :14/08/2020

AAV

TE/PN/SAR-II : 14/08/2020 : 3P/6C

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