



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 07/09/2020

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PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) . No.9214 of 2020

SureshKumar

... Petitioner/Accused No.5

Vs

The State rep.by
The Inspector of Police,
Kayathar Police Station,
Thoothukudi District.
Crime No.448 of 2020.

... Respondent/Complainant

For Petitioner : Mr.M.Solaisamy,
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. 448 of 2020 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioner/A5 herein was arrested and remanded to judicial custody on 07.07.2020 for the alleged offence under Sections 294(b), 302, 506(ii), 109 and 120 B of IPC, in Crime No.448 of 2020 on the file of the respondent Police, seeks bail.

2.Totally there are five accused in this case. The case of the prosecution is that there was a previous quarrel between the deceased and A1 in respect of selling guava fruits. Due to which, all the accused persons have conspired to commit murder of the deceased. On the date of occurrence, when the deceased was travelling in a motor cycle, as per conspiracy, A1 has driven a TATA Ace Minivan by sealing the registration numbers, wherein, the petitioner and other accused have followed the deceased and informed A1 about his movement and at a particular point, A1 has driven the minivan in a rash and negligent manner and dashed against the motorcycle of the deceased, wherein, the deceased died on the spot,



it was witnessed by the defacto complainant, who was travelling along with the deceased. Hence, the crime has been registered.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent Police.

4. The learned counsel appearing for the petitioner submitted that the main overt act attributed only against A1, that A1 said to have driven a mini van and dashed against the deceased and caused his death. Insofar as the petitioner is concerned, there is no overt act attributed against him and he is only the friend of A1. He further submitted that based on the confession of A1, the petitioner has been falsely implicated in this case. He further submitted that the petitioner is in incarceration for more than 60 days and hence, he may be released on bail.

5. The learned Government Advocate (Crl. side) appearing for the respondent Police submitted that all the accused have conspired to commit murder of the deceased and this petitioner/A5 played a major role and the petitioner informed the movement of the deceased to A1. Based on that, the first accused has driven the minivan and dashed against the deceased. Hence, he opposed this petition.

6. I have carefully considered the rival submissions and perused the records.

7. On perusal of the materials available on records, it is seen that there was a previous enmity between the deceased and A1, due to which, all the accused said to have planned to murder the deceased and on the date of occurrence, the petitioner followed the deceased and informed about the deceased movement to A1, thereafter, A1 has driven the minivan and dashed against the deceased and caused his death, the petitioner has been implicated in this case based on the confession of A1 with the Act of Section 120 B IPC.

8. Considering the facts and circumstances of the case and also considering the period of incarceration and the petitioner has been implicated based on the confession of A1 that he is a part of conspiracy, this Court is inclined to grant bail to the petitioner subject to the following conditions:

9. Accordingly, the petitioner is ordered to be released on bail on her 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 Judicial Magistrate Court No.II, Kovilpatti.

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



ii) the petitioner shall stay at Sivakasi and report before Sivakasi Town Police Station 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/-
07/09/2020

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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, KOVILPATTI.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, THOOTHUKUDI DISTRICT.
3. THE INSPECTOR OF POLICE,
KAYATHAR POLICE STATION,
THOOTHUKUDI DISTRICT.
4. THE INSPECTOR OF POLICE,
SIVAKASI TOWN POLICE STATION, SIVAKASI.
5. THE OFFICER INCHARGE,
SUB JAIL, PERAVOORANI.
6. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL OP(MD) No.9214 of 2020
Date : 07/09/2020

VSG
TK/AKM/SAR.1/07.09.2020/3P/7C

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