



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

Date : 25/09/2020

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN
CRL OP(MD) . No.10371 of 2020

S.Mohammedazharudeen,

... Petitioner/Accused-9

Vs

The Inspector of Police,
Mathur Police Station,
Pudukottai District.
(Cr.No. 251 of 2020).

... Respondent/Complainant

For Petitioner : M/s.S.D.Venkateswaran,
Advocate.

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

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

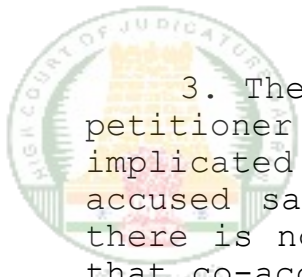
PRAYER :-

For a Bail in Cr.No. 251 of 2020 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioner/A9 herein was arrested and remanded to judicial custody on 14.08.2020 for the alleged offences under Sections 147,363,342 and 302 of IPC.

2. There are totally 11 accused in this case and the petitioner herein is arrayed as A9. The case of the prosecution is that, the deceased Akbar Ussan was having business transaction with A1, promising to supply mobile spare parts, he received a sum of Rs. 16 lakhs from A1 and failed to supply the spare parts and refused to refund the amount. In order to collect money from A1, A2 and A3 abducted the deceased and kept him in a godown belongs to A2. Thereafter all the other accused went there in two wheelers and demanded money from the deceased. Since he refused A3 and A5 hang the deceased upside down in the godown and all the accused said to have indiscriminately attacked the deceased with plastic pipe. After hearing the noise the villagers working near the godown gathered there and they found the deceased unconscious later found him dead. The villagers have surrounded all the accused persons, immediately informed the same to the police and one of the villager has given complaint before the respondent police. Based on the complaint petitioner along with other accused were arrested.



3. The learned counsel for the petitioner would submit that the petitioner herein being a friend of A1, he has been falsely implicated in this case. He would also submit that only other accused said to have attacked the deceased with plastic pipe and there is no overt act attributed against him. He would also submit that co-accused in this case namely A7, A10 and A4 were released on bail by this Court on 17.09.2020 and 24.09.2020 in CrI.O.P(MD) NOS.9483, 9889 and 10259 of 2020.

4. The learned Government Advocate(CrI.Side) would submit that the petitioner herein is the friend of A1, in order to recover money from the deceased,A1 to A3 abducted him and kept in the remote place and attacked him with plastic pipe. All the accused persons were surrounded by the villagers and caught red handed. He would also submit that investigation is yet to be completed and co-accused in this case namely A7, A10 and A4 were released on bail by this Court on 17.09.2020 and 24.09.2020 in CrI.O.P(MD)NOS.9483, 9889 and 10259 of 2020

5. From the perusal of the record it is seen that, there was a money dispute between A1 and the deceased. More than Rs.16 lakhs has to be recovered from A1, for which A1 to A3 said to have abducted the deceased and kept in a godown which belongs to A2,where they said to have demanded money. When the deceased refused they hang him upside down. Thereafter all the accused went there in two wheelers joined with A1 to A3 and they also said to have attacked the deceased indiscriminately with plastic pipe . From the perusal of confession of A1 it is seen that only A1 to A3 said to have abducted the deceased, thereafter A3 and A5 hand him upside down and other accused said to attacked him with plastic pipe and no specific overt act has been attributed against him. Now it is also stated that co-accused in this case namely A7, A10 and A4 were released on bail by this Court on 17.09.2020 and 24.09.2020 in CrI.O.P(MD)NOS.9483, 9889 and 10259 of 2020.

6. Taking note of the above facts and circumstances of the case and also taking into consideration the period of incarceration, 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, Keeranur, Pudukottai 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/-
25/09/2020

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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,
keeranur, Pudukottai.
2. -Do Thro The Chief Judicial Magistrate,
Pudukottai.
3. The Inspector of Police,
Mathur police station, Pudukottai district.
4. The Officer Incharge
District Jail, Pudukottai.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER IN
CRL OP(MD) No.10371 of 2020
Date :25/09/2020