



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

Date : 28/09/2020

PRESENT

WEB COPY

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP (MD) . No.10407 of 2020

Mohamed Irshath

... Petitioner/Accused No.1

Vs

The State Rep by
The Inspector of Police,
Eathamozhy Police Station,
Kanyakumari District.
(In Cr No. 255 of 2020).

... Respondent/Complainant

For Petitioner : Mr.K.Navaneetharaja,
Advocate.

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

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

PRAYER :-

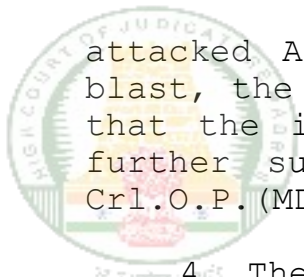
For a Bail in Cr No. 255 of 2020 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioner/A1 herein was arrested and remanded to judicial custody on 07.09.2020 for the alleged offences under Sections 147, 148, 294(b), 307, 506(ii) and 109 of IPC, in Crime No.255 of 2020, on the file of the respondent police, seeks bail.

2. There are totally seven accused in this case and the petitioner herein is arrayed as A1. The case of the prosecution due to matrimonial dispute, there was a wordy quarrel between the petitioner's sister and her husband, the injured defacto complainant said to have conducted mediation between them and A1 said to have grievance over that. On the date of occurrence, the petitioner along with other accused persons waylaid the defacto complainant and attacked him with knife and caused injuries. So far as this petitioner is concerned, he also said to have attacked the injured with knife and caused injuries.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he is not involved in the occurrence and he has been falsely implicated in the above case. He would further submit that it is a case in counter, earlier, due to matrimonial dispute between one Mohamed Hakkim and the petitioner's sister, the defacto complainant said to have



attacked A1 and threatened the petitioner's sister. As a counter blast, the present complaint has been filed. He would further submit that the injured was also discharged from the hospital. He would further submit that already this Court granted bail to A3, in CrI.O.P.(MD).No.9389 of 2020, dated 15.09.2020.

4. The learned Government Advocate(CrI.Side) would submit that there was a previous enmity between A1 and the defacto complainant and in order to take revenge he engaged other accused and waylaid the defacto complainant and also attacked him with deadly weapons and caused injuries. Some of the accused persons are still absconding.

5.From the perusal of the records it is seen that seven persons said to have attacked the defacto complainant and subsequently the injured was discharged from the hospital. It is also seen that this Court already granted bail to A3.

6. Taking note of the above facts and circumstances of the case 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 No.III, Nagercoil.

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].

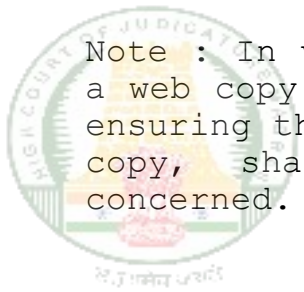
vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
28.09.2020

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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

WEB COPY

- 1.The Judicial Magistrate No.III, Nagercoil.
- 2.The Chief Judicial Magistrate, Kayakumari at Nagercoil.
- 3.The Superintendent, District Jail, Kanyakumari.
- 4.The Inspector of Police,
Eathamozhy Police Station,
Kanyakumari District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER

IN

CRL OP(MD) No.10407 of 2020

Date : 28/09/2020

KK/RSK/SAR4 (28.09.2020) 3P 6C