



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

Date : 16/10/2020

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD)Nos.11735 & 11736 of 2020

Akash

...Petitioner/Accused No.3
in Crl.O.P. (MD)No.11735 of 2020

1.Kavidasan

2.Pugazhendhi

...Petitioners/Accused 1 & 2
in Crl.O.P. (MD)No.11736 of 2020

Vs

State Rep. by
The Inspector of Police,
Pappanadu Police Station
Thanjavur District.
Crime No. 1429/2020.

... Respondent/Complainant
in both Crl.O.Ps.

For Petitioner : M/s.K.Jeyamohan,
(in both O.Ps.) Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
(in both O.Ps.) Government Advocate (Crl.Side)

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

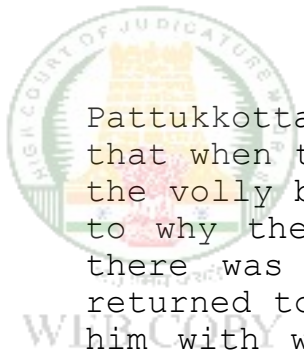
COMMON PRAYER :-

C-6B.For Bail in Crime No. 1429 of 2020 on the file of the
respondent police

COMMON ORDER : The Court made the following order :-

The petitioners/A1 to A3 , who were arrested and remanded to
judicial custody on 06.09.2020 for the offences punishable under
Sections 294(b), 324, 506(ii) IPC @ 294(b), 302 IPC in crime No.1429
of 2020 on the file of the respondent police, seek bail.

2.The case of the prosecution is that the brother of the
deceased lodged a complaint alleging that on 03.09.2020, the
deceased fell down from his bike and after hearing the said news, he
arrived at the place of occurrence and had taken the deceased to the



Pattukkottai Government Hospital. Thereafter, he came to understand that when the accused persons were parking their vehicle in front of the volly ball ground and the same was questioned by the deceased as to why the vehicle was parked on his way. In view of the same, there was a wordy quarrel was arose and while the deceased was returned to his house, the accused persons followed him and attacked him with wooden log and pushed him down and thereafter, deceased sustained head injury and died.

3.The learned counsel for the petitioners would submit that even according to the defacto complainant, the deceased fell down from the bike under the influence of alcohol. The statement of one Mayilvaganam, who brought the deceased to the hospital, is recorded in the Accident Register as if the deceased brought to the hospital in unconscious under the influence of alcohol. In the Accident Register, there was no mentioning about the attack made by the petitioners herein. Therefore, there is no evidence to implicate the petitioners under Section 302 IPC. Only to rope the petitioners, the defacto complainant changed his version and registered case under Section 302 IPC. He further submitted that the petitioners were arrested and remanded to judicial custody on 06.09.2020.

4.The learned Government Advocate(Crl.Side) would submit that all the petitioners parking their vehicle in front of the volly ball ground and the same was questioned by the deceased as to why the said vehicle was parked on the way and therefore, wordy quarrel was arose and as such, the petitioners attacked the deceased and they follow the deceased while he returning to his home and attacked him with wooden log and iron rod and therefore, the deceased fell down from the vehicle and sustained grievous injuries. Immediately, he was taken to the hospital, however, he died. Therefore, the petitioners are having specific overt act. He would further submit that investigation is still pending and prays dismissal of this petition.

5.It is seen that there are three petitioners/A1 to A3. According to the brother of the deceased, who is the defacto complainant lodged when the deceased was riding his vehicle, fell down and sustained injuries. In fact, the said fact was recorded in the Accident Register as if he fell down from his vehicle and met with accident and also he was under influence of alcohol. Due to which he died. Thereafter, the defacto complainant made statement that while the petitioners parking their vehicle in front of volly ball ground, there was a wordy quarrel between the petitioners and the deceased and hence, the petitioners planned to murder the deceased and follow his vehicle and attacked him with wooden log and iron rod. Thereafter, the deceased sustained injuries and died.

6.It is an admitted fact that the petitioners have no enmity with the deceased and they are all completely strangers to the deceased.



deceased. Even assuming that there was a petty quarrel while parking their vehicle and due to which the petitioners followed the deceased and attacked him with wooden log and iron rod.

7. On perusal of Accident Register which was entered by the Government Hospital, Pattukkottai, reveals the fact that the deceased was under influence of alcohol and fell down from his bike and sustained injury.

8. Considering the facts and circumstances of the case and also considering the period of incarceration of the petitioners, this Court is inclined to grant bail to the petitioners subject to the following conditions.

9. Accordingly, the petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties (one surety is from blood relation) each for a like sum to the satisfaction of the learned Judicial Magistrate, Orathanadu.

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 petitioners shall report before the respondent police daily at 10.30 a.m., until further orders.

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

iv) the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-

16/10/2020

/ TRUE COPY /

/ /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



TO

1 THE JUDICIAL MAGISTRATE,
ORATHANADU.

2 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJORE AT KUMBAKONAM.

3 THE INSPECTOR OF POLICE,
PAPPANADU POLICE STATION,
THANJAVUR DISTRICT.

4 THE SUPERINTENDENT,
DISTRICT JAIL, PUDHUKOTTAI.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP (MD) Nos.11735
& 11736 of 2020
Date :16/10/2020

GNS
JM/VR/SAR III/16.10.2020/4P/6C