



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

Date : 28/10/2020

PRESENT

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

CRL OP(MD). No.11777 of 2020

D.Lucka

... Petitioner/Accused

Vs

The State rep.by
The Sub Inspector of Police,
Kadaiyalumoodu Police Station,
Kanyakumari District.
Crime No.108 of 2020

... Respondent/Complainant

For Petitioner : Mr.H.Elango, 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. 108 of 2020 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioner, who was arrested and remanded to judicial custody on 17.09.2020 for the offences punishable under Section 174 Cr.P.C altered into Sections 294(b), 506(i), 419, 420, 304 IPC r/w Section 15 of the Indian Medical Council Act in crime No.108 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner is a Homeopathy Doctor and running a Clinic in the name and style of Das Clinic. without any qualification, he treated the patients in the allopathy medicine and he treated 12 year old boy and injected injection and after two days he died. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is a qualified Homeopathy Doctor. He treated the deceased for his fever and injected injection and in fact, he was also suffered COVID-19. Immediately, on the advice of the petitioner he was taken to the Government Hospital, Asaripallam where he took treatment for two days and thereafter, he died. Therefore, the petitioner is nothing to do with the crime as alleged by the



prosecution. He further submit that the petitioner's wife also a qualified Doctor and they have registered with the Tamil Nadu Medical Council and practicing as Doctors. Hence, he prayed for granting bail to the petitioner.

4. The learned Government Advocate(Crl.Side) would submit that the petitioner is a Homeopathy Doctor and running a Clinic in the name and style of Das Clinic. without any qualification, he treated the patients in the allopathy medicine and he treated 12 year old boy and injected injection and after two days he died. He would further submit that the investigation is still pending.

5.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:

6.Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two blood sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.1, Kuzhithurai.

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., for a period of two weeks and thereafter, as and when required.

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/-
28/10/2020

/ 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 concerned.

WEB COPY

TO

- 1.THE JUDICIAL MAGISTRATE NO.1,
KUZHITHURAI
- 2.DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
- 3.THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.
- 4.THE SUB INSPECTOR OF POLICE,
KADAIYALUMOODU POLICE STATION,
KANYAKUMARI DISTRICT.
- 5.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M.ELANGO, Advocate (SR-7181[I] dated 28/10/2020)

ORDER

IN

CRL OP(MD) No.11777 of 2020

Date :28/10/2020

GNS

TK/PN/SAR.3/28.10.2020/3P/7C