



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

Date : 11/11/2020

PRESENT

The Hon`ble Mr.Justice S.M.SUBRAMANIAM

CRL OP(MD) . No.12857 of 2020

M.Chinna Esakki

... Petitioner/Accused No.7

Vs

The State represented by,
The Inspector of Police,
CBCID South,
Thoothukudi District.
Crime No.5/2020.

... Respondent/Complainant

For Petitioner : Mr.Abrar Mohamed Abdullah
for M/s.Mathuram Law Associates,
Advocate.

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

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

PRAYER :-

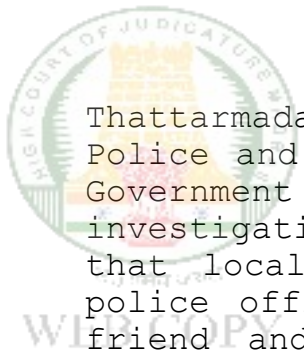
For Bail in Crime No.5 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petition for bail on hand is moved in view of the fact that the bail petition filed by the petitioner before the Principal Sessions Judge, Thoothukudi, was dismissed on 04.11.2020.

2.The learned counsel appearing for the petitioner made a submission that an urgent surgery is to be performed as the petitioner is suffering from severe stomach pain. In this regard, the Doctors of Tirunelveli Medical College Hospital has to examine the petitioner and give common opinion and provide all necessary treatments to the petitioner/7th accused. Adequate medical facilities are not provided to the petitioner and in support of the said contention, the learned counsel for the petitioner relied on the medical report of Ganesamoni Hospital. It is contended that the petitioner has not involved in the offence as alleged and he was unnecessarily implicated in a case. Thus, the medical condition of the petitioner is to be considered on bail to be granted.

3.The learned Government Advocate (Crl. Side) objected the petition by stating that the petitioner is the 7th accused in the case and three FIR's were filed against the deceased before the



Thattarmadam Police Station. Importantly, A-1 is the Inspector of Police and due to the alleged involvement of police officials, the Government of Tamil Nadu transferred the case to the CBCID for investigation. The large scale agitations were made by the people of that locality in view of the allegations of involvement by the police officials. As per the prosecution, A-2 and A-7 are close friend and there were frequents phone calls between these two accused persons. They conspired and met on several occasions and abducted the deceased person by some other hireling and committed the offence of murder. The conversation of A-2 with A7 was established through various phone calls. As per the investigation and the meeting places were also identified. The investigations are seriously in progress by the CBCID Police and in the event of the petitioner enlarged on bail at this point of time, the same would cause prejudice to the fair and free investigation to be conducted in the present case.

4.This Court is of the considered opinion that the facts and circumstances plays a pivotal role in considering the bail petition. In the present case, as per the prosecution, the offence of murder was planned by A-2 and A-7 and there was an allegation of involvement by the Police Inspector, who is arrayed as accused No.1. In the event of considering the bail to A-2, there is a likelihood of considering the petition for other accused also. In such circumstances, there is a possibility of influence and interference by the other accused, who is the Police Officer. In view of the fact that large scale allegations are put forth by the people of that locality, the CBCID is conducting vital investigation for initiation of corrective measures with reference to the functioning of the police station in that locality. Thus, there must be a free and fair investigation for the purpose of culling out the truth. This apart, the learned Government Advocate (Crl. Side) made a submission that the investigations are in progress and the involvement of the petitioner is also active, which was established during the process of investigation and therefore, the petition is to be dismissed.

5.Considering the complex and facts and circumstances and other factors, the bail petition at this juncture cannot be considered and it is not preferable to release the petitioner on bail. The investigation must be go on in a free and fair manner and the respondents are directed to expedite the investigations in the interests of public at large. Thus, the bail petition stands dismissed.

sd/-

11/11/2020

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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 SUPERINTENDENT, CENTRAL PRISON,
PALAYAMKOTTAI.
- 2.THE INSPECTOR OF POLICE,
CBCID SOUTH, THOOTHUKUDI DISTRICT.
- 3.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to MR.BASKAR MATHURAM, Advocate SR.No.7476

ORDER
IN
CRL OP(MD) No.12857 of 2020
Date :11/11/2020

SJI
PK/VR/SAR-IV/19.11.2020 : 3P/5C