



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

Date : 27/11/2020

WEB COPY

PRESENT

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

CRL OP(MD). No.13495 of 2020

Palanivelu

... Petitioner/Sole Accused

Vs

The State rep.by
The Inspector of Police,
Sampattividuthi Police Station,
Pudukkottai District.
Crime No.322/2020

... Respondent/Complainant

For Petitioner : Mr.R.Maheswaran,
Advocate.

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

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

PRAYER :-

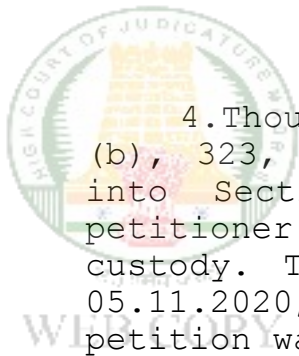
For Bail in crime No.322 of 2020 on the file of the respondent Police

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl. Side) appearing for the respondent.

2.The petitioner is the sole accused. He was arrested and remanded to Judicial Custody on 15.10.2020, for the offences punishable under Sections 294(b), 323, 324 and 506(ii) of I.P.C., @ 294(b), 323, 324, 506(ii) and 302 I.P.C., in Crime No.322 of 2020, on the file of the respondent police. He seeks bail.

3.The very same petitioner filed a bail petition in Crl.O.P(MD) No.12777 of 2020, before this Court, on 05.11.2020. The earlier bail petition was taken up for hearing on 10.11.2020 and the said bail petition was dismissed, mainly on the ground that the petitioner/accused had brutally attacked the deceased, who was aged about 75 years, who in turn, sustained very serious injuries and after taking treatment he died.



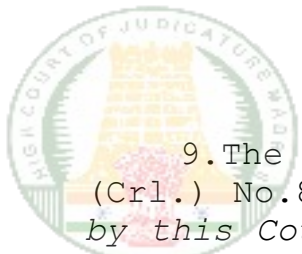
4. Though the case was initially registered under Sections 294 (b), 323, 324 and 506(ii) of I.P.C., subsequently, it was altered into Sections 294(b), 323, 324, 506(ii) and 302 I.P.C. The petitioner was arrested on 18.10.2020 and remanded to judicial custody. The first bail petition was filed by the petitioner on 05.11.2020, after 17 days from the date of arrest. The earlier bail petition was dismissed, as the investigation is in progress.

5. The learned Government Advocate (Crl.side) raised serious objections by stating that, in the event of granting of bail, there is every reason to believe that the petitioner/accused will tamper the evidence and hamper the witness.

6. Though the earlier bail petition was dismissed on 10.11.2020, now the present bail petition was filed once again on 19.11.2020, within a period of 9 days from the date of dismissal of the earlier bail petition.

7. The learned Government Advocate (Crl.side) appearing for the State made a submission that even within 9 days, six days were Deepavali Holidays and the present bail petition is filed within 3 working days. There is no chance for any change in the investigations due to Deepavali Holidays. Soon after the receipt of the dismissal order, immediately, the present bail petition is filed on 19.11.2020.

8. The question arose on dismissal of Bail Petitions immediately within a day or two, fresh bail petitions are filed by the litigants and this Court, in this regard, raised a question why such a petitions are filed within a day or two. The learned Government Advocate (crl.side) brought to the notice of this Court that the successive Bail Petitions after rejection of the first Bail Petition is being listed before the other Court. One such instance brought to the notice of this Court is that the petition in Crl.O.P. (MD)No.12857 of 2020 in respect of the case registered under Section 302 IPC., the bail petition was dismissed by this Court on 11.11.2020. Immediately after the Deepavali Holidays, the second Bail Petition filed in Crl.O.P(MD)No.13455 of 2020, which is listed before the other Court on 26.11.2020, as Item No.10. The learned Government Advocate (crl.side) brought these facts to the notice of this Court. Thus, it is apparently clear that even without the knowledge of the Judges, the successive Bail Petitions are listed by the High Court Registry, before the other Court. On verification, no orders are obtained either from the Court concerned or from the Hon'ble The Chief Justice, for listing the matters before some other Court. The Unilateral decision of the High Court Registry in listing the successive Bail Petitions, before some other Court, is directly in violation of the order of The Hon'ble Supreme Court of India in Special Leave Appeal (Crl.)No.872 of 2005, dated 13.01.2006 and the consequential Circular issued by the High Court in Services Court No. 530/Case/2006/F1, dated 08.02.2006.



9.The Hon'ble Supreme Court of India in Special Leave to Appeal (Crl.) No.872 of 2005 held that *"In view of the principle laid down by this Court, since the learned Judge, who had refused bail in the first instance was available, the matter should have been placed before him. This Court has indicated that such cases of successive bail applications should be placed before the same Judge, who had refused bail in the first instance, unless that Judge is not available. We hope the High Court will take notice of the judgment of this Court."*

10.Pursuant to the judgment of the Hon'ble Supreme Court, the High Court issued Circular in R.O.C.No.530-A/2006/F1, dated 08.02.2006 and the same is extracted hereunder:

"R.O.C.No.530-A/2006/F1

C I R C U L A R

"R.O.C.No.530-A/2006/F1

C I R C U L A R

Sub :Bail Applications - Posting of successive bail applications before the same Hon'ble Judge who had refused bail in the first instance as per the observation of the Hon'ble Supreme Court in Petition for Special Leave to Appeal (Crl.) No.872/2005 -
Instructions Issued - Regarding.

Ref:Letter of the Assistant Registrar in D.No.1927/2005/SEC-IIA of Supreme Court of India, New Delhi with the enclosure of the Orders in Petition for Special Leave to Appeal(Crl.) No.872/2005.

It is hereby directed that as per the directions of the Hon'ble Supreme Court of India in petition for Special Leave to Appeal(Crl.) No.872/2005 dated 13.01.2006, the successive bail applications filed should be posted before the same Hon'ble Judge, who had refused the bail in the first instance unless that Hon'ble Judge is not available and the petitions for cancellation of bail should also be posted before the same Hon'ble Judge, who granted bail in the first instance, unless that Hon'ble Judge is not available.



These instructions are to be followed scrupulously and any deviation in this regard will be viewed very seriously.

HIGH COURT:MADRAS
DATED:08/02/2006

Sd/-S.PALANIVELU
REGISTRAR GENERAL

/True copy/Forwarded/By Order/

DEPUTY REGISTRAR(GROUPING)"

11. When the Hon'ble High Court of Madras issued the Circular *cited supra*, implementing the orders of the Hon'ble Supreme Court of India, it is a great surprise how the successive Bail Petitions are listed by taking unilateral decision by the Registry officials, more specifically, at their choice and at their whims and fancies. In exceptional circumstances, an order is to be obtained either from the Hon'ble Judge concerned or from The Hon'ble The Chief Justice, as the case may be, for listing the matters before the other Court. Thus, a thorough Vigilance Enquiry is required and appropriate actions are to be initiated and the erred officials are to be punished.

12. There is every reason to believe that such listing of matters, in violation of the Hon'ble Supreme Court order as well as the consequential Circular of the High Court, is continuously done by the High Court Registry Officials, mostly on extraneous considerations. The corrupt activities, if any, in this regard, are to be culled out by conducting a thorough Vigilance Enquiry. The large-scale involvements with the litigants or their counsels are to be investigated. Thus, the Registrar General, High Court of Madras, is bound to act swiftly, in order to prevent such illegal listing of cases, in violation of the Circular issued by the High Court.

13. The learned Government Advocate (crl.side) brought to the Notice of this Court that these activities are going on in number of cases for long duration. Bench-hunting and Forum shopping are seriously condemned by the Hon'ble Supreme Court of India and High Court Registry cannot pave way for such illegal activities of Bench-hunting and Forum Shopping by the litigants or by their counsels. Thus, a serious action is urgently warranted.

14. In view of the facts and circumstances discussed in the aforementioned paragraphs, the following orders are passed:-

(i). The Bail Petition stands dismissed.

(ii). The Registrar General, High Court of Madras, is directed to conduct a detailed enquiry, including Vigilance Enquiry,



regarding the irregularities and illegalities being committed by the Registry Officials at Madurai Bench of Madras High Court and initiate appropriate action against all concerned, including disciplinary proceedings.

15. Registry is directed to list this matter, before me, for reporting compliance, on 15.12.2020.

sd/-
27/11/2020

/ TRUE COPY /

/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1.THE INSPECTOR OF POLICE,
SAMPATTIVIDUTHI POLICE STATION,
PUDUKKOTTAI DISTRICT.
- 2.THE OFFICER INCHARGE,
DISTRICT PRISON, PUDUKOTTAI.
- 3.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

- 1.THE REGISTRAR GENERAL,
MADRAS HIGH COURT, CHENNAI.
- 2.THE ADDITIONAL REGISTRAR GENERAL,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.13495 of 2020
Date :27/11/2020

NS
TK/PN/SAR.2/01.12.2020/5P/6C