



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 14/12/2020

PRESENT

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

CRL OP(MD).No.13758 of 2020

Madhavan

... Petitioner/Sole Accused

Vs

The State Rep. by
The Inspector of Police,
Thiruneelakudi Police Station,
Thanjavur District.
Crime No.1016 of 2020.

... Respondent/Complainant

For Petitioner : Mr.P.Pethurajesh,
Advocate.

For Respondent : Mr.R.Erottuchamy,
Government Advocate (Crl.Side)

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

PRAYER :-

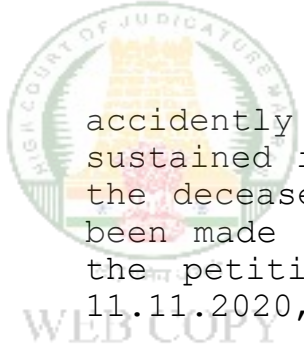
For a Bail in Crime No.1016 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner herein was arrested and remanded to judicial custody on 11.11.2020 for the alleged offence under Sections 304(2), 379 IPC r/w 21(1) of Mines and Minerals (Development & Regulation) Act, 1957.

2. The case of the prosecution is that the deceased was engaged for mining sand for making bricks. While, the deceased was in working soil she fell down , due to which the deceased sustained injury and died. Hence, the case has been registered

3. The learned counsel for the petitioner would submit that the petitioner is the sole accused and he is having vast land at Keelaseththi with abundant soil. The deceased and other person intended to loot out the soil to the petitioner's land and thereby they have proceeded to the place of occurrence. When she taken soil



accidentally the entire soil fell down , due to which the deceased sustained injury and died. The petitioner has no way connected with the deceased and on own her risk, she died. Therefore, no case has been made out as against the petitioner. He further submitted that the petitioner is arrested and remanded to judicial custody on 11.11.2020, hence he may be granted bail.

4. The learned Government Advocate(Crl.Side) would submit that the petitioner is the owner of the land, who engaged the deceased and others mining sand. Accordingly, while the deceased and others were taking the sand from the land belongs to the petitioner the entire soil fell down on the deceased and as such the deceased sustained injury and died.

5.It is seen that the petitioner is the sole accused. Admittedly, the deceased died, while taking sand in the land belongs to the petitioner. But the prosecution has failed to produce any proof to show that the petitioner is engaged with the deceased to take sand in his own land. However, the deceased, while taking sand, accidentally the entire soil fell down on her and succumbed to injury.

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.10,000/- (Rupees Ten Thousand only) with two blood related sureties each for a like sum to the satisfaction of the learned District Munsif Cum Judicial Magistrate, Thiruvudaimarudhur.

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 three weeks and thereafter as and when required for interrogation;

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.

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sd/-
14/12/2020

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/ /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.

TO

1. THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
THIRUVIDAIMARUDHUR.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
3. THE INSPECTOR OF POLICE,
THIRUNEELAKUDI POLICE STATION,
THANJAVUR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
5. THE OFFICER IN-CHARGE,
SUB JAIL,
PAPANASAM,
THANJAVUR DISTRICT.

+ 1 CC TO Mr.P.PETHU RAJESH, ADVOCATE IN SR No. 8183

ORDER
IN
CRL OP(MD) No.13758 of 2020
Date :14/12/2020

VSD

TE/PN/SAR-III : 14/12/2020 : 3P/7C

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