



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 03/12/2020

PRESENT

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

CRL OP(MD). No.13861 of 2020

Sivan

... Petitioner/Accused No.5

Vs

The State rep.by
The Inspector of Police,
Kadupatti Police Station,
Madurai District.
Crime No.1460 of 2020.

... Respondent/Complainant

For Petitioner : Mr.S.Mahendrapathy,
Advocate.

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

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

PRAYER :-

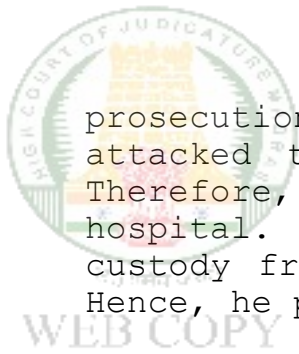
For Bail in Crime No.1460 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A5, who was arrested and remanded to judicial custody on 20.09.2020 for the offences punishable under Sections 147, 148, 294 (b), 323, 324, 506 (ii), 307 @ 302 of I.P.C on the file of the respondent police seeks bail.

2.The case of the prosecution is that the defacto complainant's brother one Pandiyarajan leased their house property, without knowledge of the defacto complainant. Due to that motive, the petitioner along with other accused persons were said to have entered into the house and abused the defacto complainant, other two person and defacto complainant's son by using filthy language and attacked him with knife on his stomach and caused grievous injury and died and also two other person sustained injury. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that due to civil dispute between A2 and deceased's family, the said occurrence took place. The petitioner happens to be a son of A2 falsely implicated in this case. Further, even according to the



prosecution, the overt act as against the petitioner is that he attacked the other injured person and not the deceased person. Therefore, he sustained simple injury and he was discharged from the hospital. Further, he submitted that the petitioner is in the custody from 20.09.2020 and the investigation is almost completed. Hence, he prayed for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) would submit that there are totally 5 accused in which, the petitioner is arrayed as fifth accused. The defacto complainant's brother one Pandiyarajan leased their house property, without knowledge of the defacto complainant. Due to that motive, the petitioner along with other accused persons said to have entered into the house and abused the defacto complainant's son by using filthy language and attacked him with knife on his stomach and caused grievous injury and died.

5. Heard both sides.

6. It is seen that there are totally 5 accused in which, the petitioner is arrayed as 5th accused. There was a dispute between A2 and the defacto complainant in respect of tenancy. The second accused is the tenant and the defacto complainant is the land owner. In this regard, already a civil suit as well as a complaint is pending between each other. Due to the said motive, on 20.09.2020, all the accused are being the family members, attacked the defacto complainant and his son. Due to which, the son of the defacto complainant sustained grievous injury and died. Other two accused persons sustained injuries. Insofar as the petitioner is concerned he is the son of A2. He also attacked the other injured person along with other accused persons and he was also discharged from the hospital.

7. 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:

8. 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 Court, Vadipatti, Madurai District.

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 stay at Chengalpattu and report before the Inspector of Police, Chengalpattu Police Station, daily at <https://hcmvcs.mca.gov.in/Service.htm> and Evening 5.30 p.m until further orders.



- 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/-
03/12/2020

/ 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.

TO

1. THE JUDICIAL MAGISTRATE,
VADIPATTI, MADURAI DISTRICT.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.
3. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
4. THE INSPECTOR OF POLICE,
KADUPATTI POLICE STATION, MADURAI DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE INSPECTOR OF POLICE,
CHENGALPATTU POLICE STATION, CHENGALPATTU.

ORDER
IN
CRL OP(MD) No.13861 of 2020
Date : 03/12/2020

DSS
TK/PN/SAR-IV (03.12.2020) 3P /7C