



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 11/12/2020

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PRESENT

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

CRL OP(MD). No.14197 of 2020

1. Thirumanavel
2. Muthuramalingam
3. Chinnadurai
4. Muthukrishnan

... Petitioners/Accused No.2to5

Vs

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

... Respondent/Complainant

For Petitioners: Mr.S.Prabhakaran, Senior counsel
for M/s.J.Sathiyaraj, Advocate.

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

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

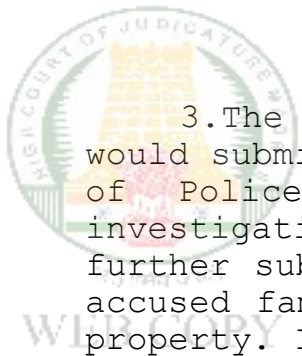
PRAYER :-

For Bail in Crime No.5 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/A2 to A5 , who were arrested and remanded to judicial custody on 20.09.2020 for the offences punishable under Sections 364,302 of IPC @ 147,148,120(B),364 and 302 of IPC on the file of the respondent police seek bail.

2.The case of the prosecution is that the accused persons conspired together and intended to murder the deceased. On 17.09.2020 all the accused persons unlawfully assembled together and kidnapped the deceased in an innova car , thereafter attacked him with wooden log, thereby he sustained injuries and died. Hence the complaint.



3.The learned Senior Counsel appearing for the petitioners would submit that initially the case was registered by the Inspector of Police, Tisayanvillai Police Station and thereafter the investigation has been transferred to the respondent herein. He further submitted that there was a civil dispute between the second accused family and the deceased family in respect of purchasing a property. Infact the first petitioner herein purchased the property belonging to the deceased and his brother-in-law and when he try to take possession of the said property there was a dispute between their family and therefore the first petitioner lodged complaint as against the son of the deceased as well as the brother of the deceased in Crime Nos.177 and 179 of 2020. He further submitted that admittedly there is no eye witness for the said occurrence and on the petitioner's confession the prosecution built up the case for the reason that already there was a civil dispute between both the families. He further submitted that the petitioners were arrested and remanded to judicial custody on 20.09.2020. Now the investigation is almost completed and the respondent is yet to file final report. He further submitted that even according to the case of prosecution the accused persons came in a innova car and kidnapped the deceased when he was proceeding in his motor cycle. There is absolutely no piece of material to show that the petitioners came in innova car and kidnapped the deceased. Therefore it is a case of circumstantial evidence and as such he sought for bail to the petitioners.

4. The learned Government Advocate(Criminal Side) submitted a counter filed by the respondent police and stated that there are seven accused in this case and the petitioners herein are arrayed as A2 to A5. Initially the case was registered by the Inspector of Police, Tisayanvillai Police Station and thereafter due to the agitation conducted by the relatives of the deceased and as per the order passed by the DGP investigation has been transferred to the file of the respondent herein. Investigation reveals that the property in Pattukkapathu Village belongs to the brother-in-law of the deceased and one Durairaj. The accused purchased the property from the brother-in-law of the defacto complainant in the name of his wife. Since he is politically influenced person of the ruling political party he encroached the entire property including the defacto complainant property. Though the defacto complainant and his son lodged complaint, the first accused / Inspector of Police, Thattmarmadam Police Station did not register any case on their complaint instead he registered case against the deceased and his brother in Crime Nos.177 and 179 of 2020 on the file of the Thattarmadam Police Station. Thereafter he also tortured the deceased and such he approached the Human Rights Commission for illegal detention and torture given by the first accused only because of wreck vengeance as against the brother of the deceased as well as the deceased all the accused persons conspired together and have kidnapped the deceased in a innova car, thereafter



injuries and died. Therefore the defacto complainant came to under stand that the deceased was admitted in the hospital and when he verified with the hospital he was declared dead. He further submitted that the investigation is almost completed and about to file final report and awaiting for CCTV footage, expert opinion and scientific report and also relevant document from the District Police Office. Hence he opposed to grant bail to the petitioners.

5. It is seen that there are totally seven accused in this case and the petitioners herein are arrayed as A2 to A5. Admittedly there was a dispute between A2 family and the deceased family in respect of property purchased by the second accused. In this regard the second accused lodged complaint and the same was registered as against the deceased and his brother in Crime Nos.177 and 179 of 2020 on the file of the Inspector of Police, Thattarmadam Police Station and both the complaint are pending investigation. While being so the deceased lodged complaint as against the Inspector of Police, Thattarmadam Police Station for illegal detention of the deceased and had approached the Human Rights Commission and it is pending for enquiry. According to the case of prosecution all the accused persons conspired together and kidnapped the deceased in a innova car attacked him brutally with wooden log, due to which he sustained grievous injuries and died. Admittedly there is no eye witness to the said occurrence. According to the prosecution there is CCTV footage to show that the accused persons have kidnapped the deceased. Further investigation is almost completed and the respondent police is about to file final report.

6. 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 petitioners subject to the following conditions:

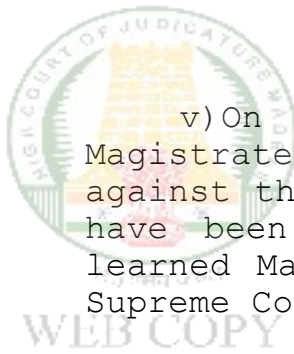
7. Accordingly, the petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two blood sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Kovilpatti

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 petitioners shall stay at Dharmapuri and report before the Inspector of Police, Dharmapuri town Police Station daily at 10.30 a.m and 5.30 pm., until further orders.

iii) the petitioners shall not tamper with evidence or witness.

iv) the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-

11/12/2020

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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 JUDICIAL MAGISTRATE, KOVILPATTI.
2. -DO- THROUGH: THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
3. THE SUPERINTENDENT,
CENTRAL JAIL, PALAYAMKOTTAI.
4. THE INSPECTOR OF POLICE,
CBCID-SOUTH, THOOTHUKUDI DISTRICT,
5. THE INSPECTOR OF POLICE,
DHARMAPURI TOWN POLICE STATION, DHARMAPURI.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.J.SATHIYARAJ, Advocate (SR-8153[I] dated 14/12/2020)

ORDER

IN

CRL OP(MD) No.14197 of 2020

Date :11/12/2020

AAV

<https://hccs.srps.in/SOP/In/Services/4.12.2020/4P/8C>