



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

Date : 03/02/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.481 of 2021

Durgai Muthu

... Petitioner/Accused No.2

Vs

The State rep.by
The Inspector of Police,
Pappakudi Police Station,
Tirunelveli District.
Crime No.390/2020

... Respondent/Complainant

For Petitioner : Mr.N.Mohideen Basha,
Advocate.

For Respondent : Mr.M.Chandra Sekaran,
Government Advocate (Crl.Side)

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

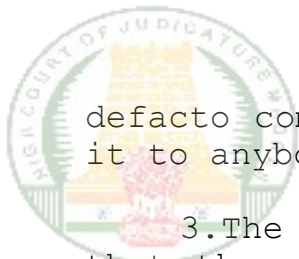
PRAYER :-

For Bail in Crime No.390 of 2020 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A2, who was arrested and remanded to judicial custody on 17.11.2020 for the offences punishable under Sections 449, 294(b) and 302 of IPC and Section 4 (A) (1) of TNPWH Act, in Crime No.390 of 2020 on the file of the respondent police seek bail.

2.The case of the prosecution is that the deceased Mubithathi is the wife of the defacto complainant and she was having illegal intimacy with other community persons. When the same was questioned by the defacto complainant, the deceased failed to correct herself on the other hand continue her illicit relationship. One month prior to the occurrence, the accused persons warned the defacto complainant about the alleged illegal intimacy of his wife. Thereafter, on 16.11.2020, at about 10.00 p.m, when the defacto complainant returned from the work to his home, he found that the deceased lying in the pool of blood with a deep cut injury in her neck and injury on her breast and further found died. Immediately, the defacto complainant called his mother and the mother of the defacto complainant informed that A1 and A2 came to the house of the



defacto complainant with Aruval and due to fear, she did not inform it to anybody. Hence, the present complaint.

3.The learned counsel appearing for the petitioner submitted that the petitioner has been arrayed as A2. He further submitted that a false case has been foisted against the petitioner, who warned the defacto complainant about the alleged illegal activities of his wife. He further submitted that there is no eye witness to the occurrence. He further submitted that A1 was arrested and released on bail by the Principal District Judge, Tirunelveli, in Cr.M.P.No.119 of 2021, dated 29.01.2021. He further submitted that the petitioner is in jail for more than 76 days, hence he may be granted bail.

4.The learned Government Advocate(Crl.Side) appearing for the respondent Police submitted that there was no motive for the accused persons to cause the murder. He further submitted that one month prior to the occurrence, the petitioner and other accused warned the defacto complainant about the alleged illegal intimacy of his wife. Hence he strongly opposed to grant bail to the petitioner.

5.Taking note of the above facts and circumstances of the case and also the fact that A1 was arrested and released on bail by the Court below and taking into consideration the period of incarceration, this Court is inclined to grant bail to the petitioner subject to the following conditions:

6.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) each with two blood related sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Alangulam.

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 10.00 am., 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 *Prakash Singh 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/-
03/02/2021

/ TRUE COPY /

WEB COPY

/ /2021

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

ORDER
IN
CRL OP(MD) No.481 of 2021
Date :03/02/2021

VSG
TK/VR/SAR.1/03.02.2021/3P/6C