



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

Date : 25/01/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.762 of 2021

Niruban @ Niruban Chakkaravarthi ... Petitioner/1st Accused

Vs

The State rep.by
The Inspector of Police,
Lalgudi Police Station,
Trichy District.
Crime No.1736 of 2020.

... Respondent/Complainant

For Petitioner : Mr.T.Lenin Kumar,
Advocate.

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

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

PRAYER :-

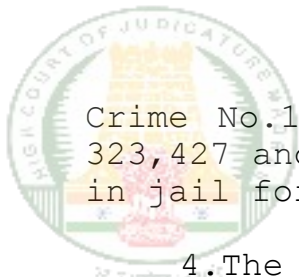
For a Bail in Crime No.1736 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested and remanded to judicial custody on 17.11.2020 for the offences punishable under Sections 294(b), 323, 307 of IPC @ Sections 294(b), 323, 302 of IPC on the file of the respondent police seeks bail.

2.The case of the prosecution is that due to civil dispute the petitioner along with other accused said to have attacked the defacto complainant and his son with wooden log, due to which son of the defacto complainant succumbed to injuries. Hence the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and a false case has been foisted against the petitioner. He would also submit that during the occurrence there was no electricity and while damaging the house made a blow on the head of the deceased mistakenly. He would also submit that after the occurrence the petitioner's father lodged a complaint against the said person including the deceased and the same was registered in



Crime No.1737 of 2020 for the offences under Sections 147,294(b), 323,427 and 506(i) of IPC. He would also submit that the petitioner is in jail for more than 60 days, hence he may be granted bail.

4. The learned Government Advocate (Crl. Side) would submit that due to civil dispute the petitioner along with other accused said to have attacked the defacto complainant and his son with wooden log, due to which son of the defacto complainant succumbed to injuries. He would also submit that the case in Crime No. 1737 of 2020 for the offences under Sections 147,294(b), 323,427 and 506(i) of IPC was referred as 'Mistake of Fact'. He would also submit that no previous case is pending against the petitioner.

5. It is seen that the defacto complainant/ father of the deceased had lodged a complaint on the assault made by the petitioner and three others. Initially case was registered under Sections 294(b), 323,307 of IPC and later altered to Sections 294(b), 323,302 of IPC. The defacto complainant is working in Jail Department and admittedly he is not an eye witness to the said occurrence. One Palanisamy and Suseela who are residing near the house of Ilangovan seen the accused attack the son of the defacto complainant with wooden log on the back of the head. Prior to it, the defacto complainant's complaint is that he was attacked by A1 and A2 and he was taking treatment as O.P. at Government Hospital, Lalgudi and at that time he had heard the news of attack of his son, went to the scene of occurrence and had taken his son to Lalgudi Government Hospital and thereafter taken to Neuro One Hospital at Trichy, later his son succumbed to injuries on 16.11.2020 at about 1.37 a.m. and thereafter the case has been altered. The defacto complainant wife/Vijaya had been later introduced as eye witness in this case and they have stated that the accused persons had indiscriminately attacked the deceased with wooden log. A case in counter has also been registered in Crime No. 1737 of 2020 against the Raja and nine others.

6. Taking note of the above facts and circumstances of the case and also taking into consideration the period of incarceration and also taking note of the fact that no previous case is pending against the petitioner, 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 sureties (out of which one shall be a blood related surety) each for a like sum to the satisfaction of the learned Judicial Magistrate, Lalgudi.

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



ii) the petitioner shall report before the respondent police daily at 10.30 a.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/-
25/01/2021

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

ORDER IN
CRL OP(MD) No.762 of 2021
Date : 25/01/2021

AAV

<https://hccvcrs.cba.gov.in/hccservices/1.2021/3P/6C>