



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

Date : 21/01/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.755 of 2021

M.Selva Kumar

... Petitioner/Accused No.2

Vs

The State rep.by
The Inspector of Police,
Muthiapuram Police Station,
Tuticorin, Tuticorin District.
Crime No.439 of 2020.

... Respondent/Complainant

For Petitioner : Mr.KA.Raamakrishnan,
Advocate.

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

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

PRAYER :-

For Bail Crime No.439 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 05.12.2020 for the offences punishable under Sections 294 (b), 302, 506(ii) and 109 of IPC on the file of the respondent police seeks bail.

2.The defacto complainant is the father of the petitioner and the deceased is the wife of the defacto complainant. The defacto complainant and his wife is have two children, the petitioner herein and his elder brother Muthuraj. Initially they were living in a joint family even after their marriage with their children. There was a dispute with regard to partition of properties. The defacto complainant refused to give the property as asked by the petitioner and his brother, hence they left the joint family and living separately. On 24.11.2020 at about 09.30 pm.,A1 in this case picked up quarrel with the defacto complainant seeking for share of his property. At that time the deceased had intervened, in which the petitioner's brother has assaulted her with iron rod in her head. Thereafter she was taken to hospital for treatment and on the next



day morning she consumed kerosene and thereafter also she was taken to hospital and she was given treatment for the same. On 06.12.2020 she died. Hence the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is the second son of the deceased and the defacto complainant. Initially the deceased and the defacto complainant and the petitioner are living in a joint family with their children. It is the admitted case that on 24.11.2020 the brother of the petitioner picked up quarrel with the defacto complainant and when the deceased intervened she was being assaulted. He would also submit that the petitioner was not present in the scene of occurrence. He would also submit that there is no material produced to show that the earlier before the occurrence the petitioner met his brother or contacted him. He would also submit that the deceased died due to consumption of kerosene and not due to the attack of the petitioner herein, hence he seeks bail.

4. The learned Government Advocate(Crl.Side) would submit that the deceased is the own mother of the petitioner. This petitioner along with his brother planned to eliminate their parents for the purpose of not giving share. The petitioner along with his elder brother picked up quarrel with the defacto complainant and when the deceased intervened, attacked her with iron rod and due to the said humiliation she consumed kerosene and immediately rushed to the hospital for treatment on 25.11.2020 and died on 05.12.2020. The Post Mortem report would also state that the deceased would have appear to have died of atherosclerotic Coronary arterial heart diseased and the final opinion is reserved to rule out Kerosene of poison ingestion. He would also submit that viscera report is awaited.

5. 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:

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) 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 No.II, Thoothukudi

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 two weeks and thereafter as and



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/-

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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 NO.II, THOOTHUKUDI.

2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.

3. THE INSPECTOR OF POLICE,
MUTHIAPURAM POLICE STATION,
TUTICORIN, TUTICORIN DISTRICT.

4. THE OFFICER INCHARGE,
PERURANI JAIL, PERURANI, TUTICORIN DISTRICT.

5. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.755 of 2021

Date : 21/01/2021

AAV

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