



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

Date : 27/01/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.1130 of 2021

1. Ganesan
2. Mayandi @ Maruthupandi
3. Mahalingam ... Petitioners/Accused No.1 to 3

Vs

State Rep.by
The Inspector of Police,
Nathampatti Police Station,
Virudhunagar District.
Crime No.392 of 2020. ... Respondent/Complainant

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

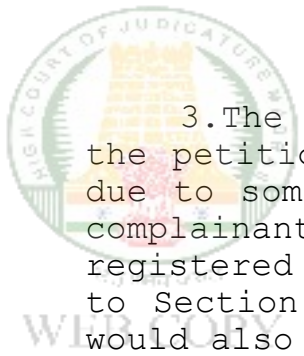
PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :- For Bail in Crime No.392 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 to A3 , who were arrested and remanded to judicial custody on 24.11.2020 for the offences punishable under Sections 294(b),323,506(i) of IPC @ 307 of IPC @ 302 of IPC on the file of the respondent police seek bail.

2.The case of the prosecution is that on 29.10.2020 at about 06.30 pm., when the defacto complainant was in his rice mill, A1 abused him and also kicked him on his stomach and pushed him down, due to which he fell down and at that time A2 and A3 also kicked him on his chest and stomach and they criminally intimidated him. Initially case was registered under Sections 294(b), 323 and 506(i) of IPC and subsequently the case was altered to Section 307 of IPC. The defacto complainant was admitted in the Government Rajaji Hospital, Madurai for more than 50 days and he died on 29.12.2020 due to severe stomach pain, hence the case was altered to Section



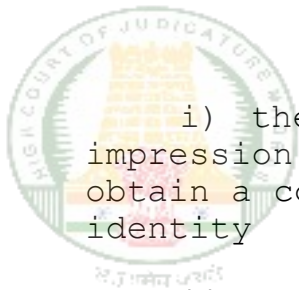
3.The learned counsel for the petitioners would submit that the petitioners are arrayed as A1 to A3. He would also submit that due to some land dispute the petitioners herein abused the defacto complainant and kicked on his stomach and chest. Initially case was registered under Sections 294(b), 323 and 506(i) of IPC and altered to Section 307 of IPC and later altered to Section 302 of IPC. He would also submit that earlier the petitioners were arrested for the offence under Section 307 of IPC and bail was also granted to the petitioners by the learned Principal District and Sessions Judge in Cr.M.P.No.2425 of 2020 and while they presented for executing sureties the learned Magistrate insisted for Tahsildhar Certificate. In the mean time, the injured person died and the case was altered to Section 302 of IPC. He would also submit that the injured after getting discharged from the hospital died in his house on 29.12.2020 and during the attack no weapon used. Hence he seeks bail.

4. The learned Government Advocate(Crl.Side) would submit that 29.10.2020 at about 06.30 pm., when the defacto complainant was in his rice mill, A1 abused him and also kicked him on his stomach and pushed him down, due to which he fell down and at that time A2 and A3 also kicked him on his chest and stomach and they criminally intimidated him. He would also submit that due to the attack made by the petitioners, he deceased succumbed to injuries. Hence he strongly opposed to grant bail to the petitioners.

5. It is seen that the occurrence took place on 29.10.2020 and the complaint was lodged on 01.11.2020 and the petitioners were arrested on 24.11.2020 for the offence under Sections 294(b), 323 and 506(i), 307 of IPC and bail was also granted to the petitioners by the learned Principal District and Sessions Judge in Cr.M.P.No.2425 of 2020 and while they went for executing sureties the learned Magistrate insisted for Tahsildhar Certificate. In the mean while the injured who was admitted in the hospital on 01.11.2020 died on 18.12.2020 and thereafter the case has been altered to Section 302 of IPC. In this case the victim got discharged from the hospital and thereafter he was in his home where again he developed stomach pain and while he was taken to hospital he died. In this no weapon was used.

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 No.I, Srivilliputhur.



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 report before the respondent police daily at 10.30 am., for a period of two weeks and thereafter as and when required for interrogation.

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/-

27/01/2021

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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.I, SRIVILLIPUTHUR.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILIPUTTUR.
3. THE OFFICER INCHARGE, DISTRICT JAIL, THENI.
4. THE INSPECTOR OF POLICE,
NATHAMPATTI POLICE STATION, VIRUDHUNAGAR DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL OP(MD) No.1130 of 2021

Date : 27/01/2021