



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 18/03/2021

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD).Nos.4043 and 3613 of 2021

Sivakumar

... Petitioner/Accused in
Crl.O.P(MD) No. 4043 of 2021

Esakkimuthu

... Petitioner/Accused in
Crl.O.P(MD) No. 3613 of 2021

Vs

The State rep.by,
The Inspector of Police,
Sivanthipatti Police Station,
Tirunelveli District.
In Crime No.348 of 2020..

... Respondent/Complainant in both petitions

(In Crl.O.P(MD)No.4043 of 2021)

For Petitioner : M/s.Jinnah.S.M.A.,
Advocate.

(In Crl.O.P(MD)No.3613 of 2021)

For Petitioner : M/s.P.SamuelGunasingh, Advocate
(In both Petitions)

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

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

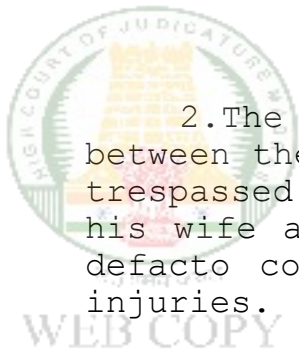
COMMON PRAYER :-

For Bail in Crime No.348 of 2020 on the file of the Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners/A5 and A4 who were arrested and remanded to judicial custody on 03.01.2021 and 18.01.2021 for the offences punishable under Sections 450, 294(b), 307,302 and 506(ii) of IPC and Section of TNPHW Act @ 120(B), 450,294(b), 307,302,506(ii) of IPC , Section 4 of TNPHW Act r/w.34 of IPC on the file of the

<https://hccs.courts.myservices.in/hccs/> seek bail.



2.The case of the prosecution is that due to some civil dispute between the parties at the instigation of A1 all the accused persons trespassed into the house of the defacto complainant attacked him, his wife and his mother with iron, due to which the mother of the defacto complainant succumbed to injuries and his wife sustained injuries. Hence the complaint.

3.The learned counsel for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would also submit that petitioners name does not found place in the First Information Report and they have been implicated as accused based on the confession given by the co-accused. He would also submit that the petitioners are in jail for more than 70 days, hence they may be granted bail.

4. The learned Government Advocate(Crl.Side) would submit that there are totally five accused in this case and the petitioners herein are arrayed as A4 and A5. Due to some civil dispute between the parties at the instigation of A1 all the accused persons trespassed into the house of the defacto complainant attacked him, his wife and his mother with iron, due to which the mother of the defacto complainant succumbed to injuries and the other sustained injuries.

5. It is seen that there is some dispute between the petitioners and the injured and civil suit is also pending. A1 said to have engaged A2 to A5 to identify the house of the defacto complainant. Later A2 to A4 had entered into the house of the Manorama and assaulted her. On hearing the cry when the deceased had come there all the accused persons using stick and iron rod assaulted her, due to which she died. As regards A5 he only identified the house of the deceased and the victim and as regards A4 he attacked only the defacto complainant and he never gone near the deceased. In this case A1 who is the main accused in this cases having grievance against his sister had engaged other accused to commit the offence was granted bail by the Principal District and Sessions Judge, Tirunelveli.

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 sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.III, Tirunelveli

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 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 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/-

18/03/2021

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV

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.

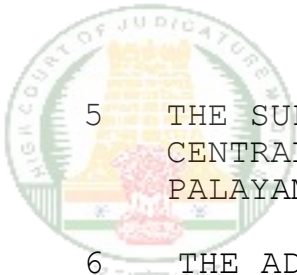
TO

1 THE JUDICIAL MAGISTRATE NO.III
TIRUNELVELI.

2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT

3 THE INSPECTOR OF POLICE
SIVANTHIPATTI POLICE STATION,
TIRUNELVELI DISTRICT.

4 THE OFFICER INCHARGE,
SUB JAIL,
KULITHALAI, KARUR DISTRICT.



5 THE SUPERINTENDENT,
CENTRAL PRISON,
PALAYAMKOTTAI.

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

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ORDER
IN
CRL OP (MD) .Nos.4043 and 3613
of 2021
Date :18/03/2021

NR/PN/SAR-IV(18.03.2021) 4P:7C