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

Reserved on : 19.07.2021

Pronounced on : 20.07.2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.9191 of 2021

Saribu @ Mohamed Sarif

... Petitioner/Accused No.1

Vs

State Rep.by
The Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram District.
Crime No.138/2021.

... Respondent/Complainant

Althaf Hussain

... Petitioner/ Defacto complainant
IN CRL MP(MD)No.4938 of 2021
IN CRL OP(MD). No.9191 of 2021

For Petitioner : Mr.R.Venkateswaran, Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

For Intervenor : Mr.R.Karunanithi, Advocate

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

PRAYER :- For Bail in Crime No. 138 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A.1 who was arrested and remanded to judicial custody on 04.04.2021 for the offences punishable under Sections 147, 148, 341, 294(b), 324 and 307 I.P.C., in Crime No.138 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution in this case is that there is previous enmity between the father of the defacto complainant viz., Mohamed Ethirsh and the first accused Mohamed Sarif in connection with the landed property. On 31.03.2021 at about 09.30 pm., when the defacto complainant's father and his relative Sarif Mohamed were receiving in a two wheeler after completing the work, the defacto



complainant was following them in his motor cycle. From a car bearing Registration No.TN-22-BR-3637 standing in front of the house of the first accused Mohamed Sarif, the accused came out and waylaid the two wheeler of the defacto complainant's father. The accused Mohamed Asik told the accused Mohamed Sarif to kill the defacto complainant's father and gave an aruval to Mohamed Sarif. On receiving the aruval, Mohamed Sarif tried to attack the defacto complainant's father. Since he lowered his head, the attack fell on his head, resulting in head injury. Mohamed Asad shouted to kill them and Samsammal took an aruval and tried to attack the defacto complainant's father. When Sarif Mohammed tried to prevent that attack, he suffered injury on his cheeks. On hearing the noise, the defacto complainant and others rushed to the spot. Hawabeevi shouted that they would take the head of the family members of the defacto complainant and then they left the scene. Therefore, this case came to be registered.

3. This is the fourth bail petition. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. His further submission is that perusal of the accident register and the injuries, copies of which filed by him shows that the injured got themselves admitted in the hospital. They told that they were attacked by knife, steel rod and bottle. There is contradiction in the First Information Report as to weapon used for commission of offence. Further the petitioner is in custody from 04.04.2021. Final report has not been filed. In spite of completion of 100 days, since the registration of the First Information Report. Hence he seeks bail.

4.The learned counsel for the defacto complainant/intervenor strongly opposed to grant bail to the petitioner on the ground that the petitioner is the main accused in this case and the co-accused are still absconding. He further submitted that the petitioner was granted interim bail on medical grounds. Misusing the interim bail granted by the Court on medical grounds, he attended the marriage function. It shows that by making false medical grounds to the Court, he got interim bail. Hence, he is not entitled for bail.

5.The learned Additional Public Prosecutor opposed this petition on the ground that the co-accused are still absconding.

6.The contention of the rival parties were considered in detail. The bail and anticipatory bail filed by the accused persons were dismissed on 18.06.2021. Some of the accused in this case are also accused in Crime No.88 of 2021, concerning another incident involving defacto complainant and their party as victims. Since dismissal of the earlier petition there is no change in the circumstances of the case. The contention of the petitioner that there is some discrepancies in the accident register and the First Information Report with regard to the weapon used for the commission of offence, cannot be considered in the trial.



7. Considering the nature of incident, the role of the accused, misuse of interim bail granted earlier in favour of the petitioner, this Court is not inclined to grant bail to the petitioner.

8. In the result, the petition stands dismissed.

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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 INSPECTOR OF POLICE,
SAYALKUDI POLICE STATION,
RAMANATHAPURAM DISTRICT.
2. THE OFFICER INCHARGE, SUB JAIL,
PARAMAKUDI.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.9191 of 2021
Date :20/07/2021

AAV
MS/SRS/SAR-4/26.07.2021/3P.4C