



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/09/2021

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PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.12322 of 2021

Iyyappan

... Petitioner/Accused No.1

Vs

The State rep.by
The Inspector of Police,
Mukkudal Police Station
Tirunelveli District
Crime No.90 of 2021.

... Respondent/Complainant

For Petitioner : Mr.V.KATHIRVELU,
Senior Counsel
For Mr.K.PRABHU, Advocate.
For Respondent : Mr.T.SENTHILKUMAR,
Government Advocate (Crl.Side)
For Intervener : Mr.T.LENIN KUMAR, Advocate

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

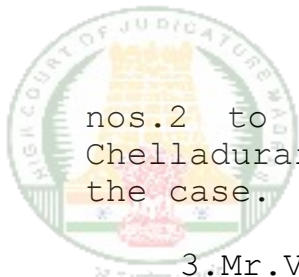
PRAYER :-

For Bail in Crime No.90 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested on 22.02.2021 for the offence punishable under Sections 294(b), 302 and 506(ii) I.P.C, in Crime No.90 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the deceased Chelladurai was the brother's son of the defacto complainant. On 18.02.2021 at around 6.00 p.m, when the defacto complainant was returning from a pond situated in Maranthai Road, the deceased Chelladurai and few others were sitting and talking near one Rajendran's Garden, at that time, the petitioner herein came with an aruval towards the deceased and attacked the said Chelladurai stating that till his lifetime, he will not allow anyone to become the Dharmakarta of Kailasanathar Temple and also the panchayat president. The petitioner herein attacked the said Chelladurai on the instigation of the accused



nos.2 to 6 as they had previous enmities. Thereafter, the said Chelladurai succumbed to injuries on the way to the hospital. Hence, the case.

3.Mr.V.Kathirvelu, learned Senior Counsel appearing on behalf of the petitioner would submit that the deceased is a notorious rowdy, he has 21 cases to his credit. On the complaint of the defacto complainant, the respondent police registered a case as against this petitioner and five others. After investigation, the respondent police found that the said five other accused have been falsely implicated and subsequently, their names were deleted and the final report was filed as against this petitioner alone. The learned Senior Counsel would further submit that due to the previous antecedents of the deceased, several enemies are there against him and some of them may have committed this offence. The investigation in this case was over, the final report has been filed and the case was committed to the Court of Sessions and now, it is pending for trial in S.C.No.381 of 2021 on the file of the Principal District and Sessions Court, Tirunelveli.

4.The learned Senior Counsel fairly concedes that this petitioner is having 19 previous cases to his credit, out of which, 5 cases are initiated by the Revenue Divisional Officer for the offence under Section 107 Cr.P.C and the same were also disposed of; 8 other cases foisted against the petitioner were also referred as mistake of fact; the other I.P.C offences foisted against him were also either disposed of or referred as mistake of fact, in which, only 2 cases are pending and 3 cases are pending as NTF (Not taken on file) and that too under investigation. The petitioner has also filed an affidavit of undertaking attested by the Jailor, Central Prison, Palayamkottai before this Court that he will not indulge in any other offences in future. He further submitted that the petitioner is in jail from 22.02.2021 and hence, he prays for grant of bail.

5.The learned Government Advocate(Crl.Side) would submit that the investigation is over, the final report has also been filed, it was committed to the Court of Sessions and now, it is pending for trial. He would further submit that this petitioner is having bad antecedents and confirmed that one case is pending investigation, two cases are not taken on file and three cases are yet to be taken on file by the Court.

6.Mr.T.Lenin Kumar, learned counsel for the Intervener strongly opposed for grant of bail on the ground that the petitioner is having bad antecedents to his credit and also attempted to tamper the witnesses when he was in prison, for which, the defacto complainant has lodged a complaint before the Legal Services Authority, Cheranmahadevi on 09.08.2021 and the same has been referred to the Sub Inspector of Police, Mukkudal Police Station, Madurai for necessary action. The learned counsel has also brought



attention to the statement of the Doctor in this case that the deceased was brutally attacked with 12 cut injuries.

7.This Court has considered the rival submissions and perused the materials available on record.

8. Admittedly, the petitioner as well as the deceased are notorious criminals. The deceased is having 21 cases to his credit and the petitioner has also involved in 19 cases. The present case was registered at the instance of the defacto complainant that he along with three others has witnessed the occurrence. Based on that, the case was registered as against the six named accused. After investigation, the respondent police have filed the final report as against this petitioner alone. The petitioner was arrested on 22.02.2021 and he is in judicial custody for the past six months. Investigation in this case was over and the final report was also filed and it was committed to the Court of Sessions and now, it was pending before the Principal District and Sessions Court, Tirunelveli in S.C.No.381 of 2021. Though the defacto complainant claims that there is a threat to him, no substantial material is placed before this Court except the petition given to the Legal Services Authority.

9.Considering the facts and circumstances of the case, the fact that the petitioner has filed an undertaking affidavit attested by the Jailor, Central Prison, Palayamkottai, before this Court that he will not indulge in any other offences in future and the stage of the case and also the period of incarceration, this Court is inclined to grant bail to the petitioner, however, with stringent conditions.

10.Accordingly, this Criminal Original Petition is allowed and 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, each for a like sum to the satisfaction of the learned Judicial Magistrate, Cheranmahadevi and on further conditions that:

[a] the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

[b] the petitioner shall stay at Tiruppur and report before the Tiruppur Town Police Station daily at 10.30 a.m until further orders.

[c] the petitioner shall not abscond either during investigation or trial.

[d] the petitioner shall appear before the trial Court on every hearing dates without fail.

[e] the petitioner shall not tamper with the evidence or witness either during investigation or trial.

[f]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]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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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
CHERANMAHADEVI.
- 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3.THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI.
- 4.THE INSPECTOR OF POLICE,
MUKKUDAL POLICE STATION
TIRUNELVELI DISTRICT
- 5.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE INSPECTOR OF POLICE
TIRUPPUR TOWN POLICE STATION,
TIRUPPUR.

+1. CC to Mr.K.PRABHU, Advocate SR.No.5823

ORDER IN

CRL OP(MD) No.12322 of 2021
Date :01/09/2021

SA/PN/SAR.4/01.09.2021/4P/8C