



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

Date : 02/09/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.12185 of 2021

1. Anbu @ Anbalagan
2. Backiyaraj

... Petitioners/Accused No.3 & 4

Vs

State rep.by
The Sub Inspector of Police,
Somarasampet Police Station,
Trichy District.
(Crime No.678 of 2021).

... Respondent/Complainant

For Petitioners: Mr.S.Vinayak,
Advocate.

For Respondent : Mr.T.Senthilkumar,
Government Advocate (Crl.Side)

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

PRAYER :- For Bail in Crime No.678 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/A3 and A4, who were arrested on 01.08.2021 for the offence punishable under Sections 294(b), 323, 324, 302 and 506 (ii) IPC r/w. Section 4 of TNPHW Act 2002, in Cr.No.678 of 2021 on the file of the respondent police, seek bail.

2. The case of the prosecution is that the defacto complainant and A1 are friends. On 26.07.2021, at about 11.00 p.m., A1 visited the house of the defacto complainant and talked to his wife, at that time, the defacto complainant warned him. Enraged over the same, A1 along with other accused went to the defacto complainant's house, attacked him and his wife and caused injury. The defacto complainant's friend, one Mukilarasan, attempted to pacify them, but, A1 attacked him with aruval and caused injury on his head, as a result of which, he died in the hospital. Hence, the case.

3. The learned counsel appearing for the petitioner submits that the petitioners did not attack the deceased and A1 alone had caused injury on the deceased. Therefore, there is no specific



overt act attributed by the petitioners against the deceased. Hence, he prayed for grant of bail.

4. The learned Government Advocate (Crl. Side) submitted that there is no motive against the deceased. The deceased, who was standing in front of the occurrence place, attempted to pacify the accused, at that time, A1 attacked him with aruval and caused injury on his head, as a result of which, he died on the way to hospital.

5. There was a quarrel between A1 and the defacto complainant. The petitioners herein are A3 and A4 and they went to the defacto complainant's house in support of A1. The deceased, who was standing in front of the occurrence place, attempted to pacify the accused, at that time, A1 attacked the deceased with aruval and caused injury on his head, as a result of which, he died on the way to the hospital. Therefore, the petitioners are not having any specific overt act as against the deceased. Further, the defacto complainant and his wife, who also sustained injury, were discharged from the hospital on 06.08.2021. The petitioners are said to have assaulted the defacto complainant and his wife.

6. Considering the facts and circumstances of the case, the period of incarceration and the fact that the petitioners are not having any specific overt act as against the deceased and the injured had been discharged from the hospital, this Court is inclined to grant bail to the petitioners.

7. Accordingly, the Criminal Original Petition is ordered. The petitioners are directed 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, Additional Mahila Court, Trichy, and on further conditions that:

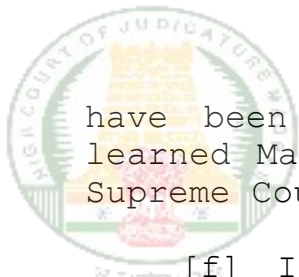
[a] the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall appear before the respondent police daily twice, i.e. morning at 10.30 a.m. and evening at 5.30 p.m. until further orders.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond either during investigation or trial.

[e] 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]**.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
02/09/2021

/ TRUE COPY /

/ /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,
ADDITIONAL MAHILA COURT, TRICHY.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.
3. THE SUB INSPECTOR OF POLICE,
SOMARASAMPET POLICE STATION,
TRICHY DISTRICT.
4. THE SUPERINTENDENT, CENTRAL PRISON,
TRICHY.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.12185 of 2021
Date :02/09/2021

OGY
MS/VR/SAR-3/02.09.2021/3P.6C