



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 22/10/2021

PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.15195 of 2021

K.Mantharamoorthy

... Petitioner/7th Accused

Vs

The State rep.by,
The Inspector of Police,
S.S.Colony Police Station
Madurai District
In Crime No.1091 of 2019.

... Respondent/Complainant

For Petitioner : Mr.C.Prithviraj
Advocate.

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

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

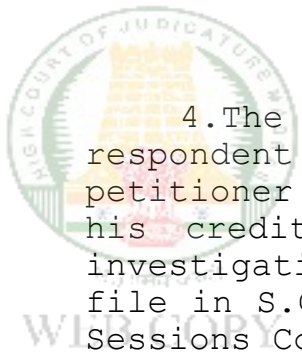
PRAYER :-For Bail in Crime No.1091 of 2019 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A7, who was arrested on 13.11.2019, for the offence punishable under Sections 147, 148, 149, 342, 294(b), 324, 302, 506(ii), 114 and 34 of I.P.C., in Crime No.1091 of 2019 on the file of the respondent Police, seeks bail.

2.The case of the prosecution is that on 14.10.2019, due to personal vengeance, the petitioner and other accused came to the defacto complainant's house and attacked his son. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has not indulged in any kind of offence as alleged by the prosecution. The FIR was registered against six persons, wherein, the petitioner is arrayed as unnamed accused and later, on the confession statement of the co-accused, the petitioner was arrayed as accused no.7. He is inside the prison from 13.11.2019 and hence, he seeks for grant of bail.



4.The learned Additional Public Prosecutor appearing for the respondent police opposed for grant of bail on the ground that the petitioner is a history sheet rowdy and having 16 previous cases to his credit. He would further submit that after completing the investigation, a charge sheet was laid and the same was taken on file in S.C.No.65 of 2020 on the file of VI Additional District and Sessions Court, Madurai.

5.At this juncture, the learned counsel for the petitioner would submit that out of 16 previous cases, 5 cases ended in acquittal and only 11 cases are pending. However, the petitioner has filed the undertaking affidavits of one Ramesh Krishnan, S/o.Srinivasan, who is working as a points man at Traffic Department (PF No.15412040289) in Railway Junction, Madurai and one Mathubalan, S/o.Siva @ Balakrishnan, who is working as a DRM Car Dr./General (PF No.04539436) in Divisional Railway Manager Officer, Railway Colony, Madurai, in which, they have stated that they know the petitioner very well and gave an assurance that the petitioner will not involve in any other offence in future and if the petitioner involves any further offence, they will be responsible for the same and they will abide by to any condition imposed by this Court.

6.Considering the nature of offence, this Court has dismissed the earlier bail application filed by the petitioner in Crl.OP(MD). No.1280 of 2021, dated 03.02.2021 with a direction to the trial Court to complete the trial within a period of six months. But the trial Court could not complete the same, in view of the present day situation. Admittedly, the petitioner is in judicial custody for more than two years.

7.Considering the facts and circumstances of the case, the undertaking affidavit filed by the aforesaid two respectable persons, 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:

8.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.1,00,000/-(Rupees one lakh only) with two sureties for a like sum to the satisfaction of the learned Judicial Magistrate NO.V, Madurai on further conditions that:

[a] the persons who are giving sureties should be respectable persons in their locality, either Government Servants or elected people representatives or the persons who are having permanent business establishments;

[b]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;



[c] The petitioner shall not misuse the liberty granted to the petitioner by this Court and if the petitioner involves in any further offence, the respondent police shall inform the same to the concerned Court. The concerned Court shall impound the sureties amount;

[d] the petitioner shall report before respondent police daily at 10.30 a.m until further orders;

[e] the petitioner shall not abscond during the trial;

[f] the petitioner shall not tamper with the evidence or witness during trial;

[g] 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]**.

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

sd/-

22/10/2021

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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.V, MADURAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE
S.S.COLONY POLICE STATION, MADURAI DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

ORDER IN

CRL OP(MD) No.15195 of 2021

Date :22/10/2021

MSA

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