



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 09/09/2021
PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.13207 of 2021

1.Sudalaimuthu
2.Esakki @ Mathesh ... Petitioners/Accused No.1 & 2

Vs

The State rep.by,
The Inpsector of Police,
Kulasekarapattinam Police Station,
Tuticorin District.
(Crime No.186/2021) ... Respondent/Complainant

For Petitioners : Mr.V.Angusamy,
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.186 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 & A2, who were arrested on 07.07.2021, for the offence punishable under Section 302 IPC, in Crime No.186 of 2021 on the file of the respondent police, seek bail.

2.The case of the prosecution is that the deceased in this case assaulted the mother of the third accused on 26.05.2021, for which, a case was registered in Cr.No.158 of 2021. In that incident, the mother of the third accused had suffered serious injury, due to which, she was not able to lift her hand. The wife of A1 was also assaulted in that incident. On that motive, the petitioners along with other accused assaulted the deceased and caused death. Hence, the case.

3. The learned counsel for the petitioners submits that the petitioners are innocents and they have been implicated as per the confession statement of the co-accused. Further, there is no eye-witness to this occurrence. The co-accused in this case was released on bail by this Court in Crl.OP(MD).No.12349 of 2021, on 27.08.2021. The petitioners are languishing in jail from 07.07.2021. The



learned counsel for the petitioners further submits that the petitioners are ready to abide by any condition imposed by this Court and to stay far away from the place of occurrence.

4.The learned Government Advocate(Crl.Side) appearing for the respondent opposed for grant of bail on the ground that the investigation is yet to be completed. The learned Government Advocate (Crl. Side) further submits that there is no eye-witness to this occurrence and it is a case of circumstantial evidence. There are witnesses to substantiate that the petitioners and other accused came out of the deceased's house with deadly weapons. The overt act attributed as against the petitioners, as per the confession statement of the co-accused, is that they have also participated in the offence and attacked the deceased with an iron rod on his mouth.

5. Considering the facts and circumstances of the case, the nature of allegation levelled against the petitioners, the fact that the co-accused has already been released on bail, the period of incarceration and also the fact that the overt act attributed as against the petitioners is only based on the confession statement of the co-accused, this Court is inclined to grant bail to the petitioners.

6. Accordingly, this 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, Thiruchendur, Thoothukudi District 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 stay at Perambalur and report before Perambalur Police Station daily at 10.30 a.m. until further orders.

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

[e] the petitioners shall not tamper with 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 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]**.



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

sd/-
09/09/2021

/ TRUE COPY /

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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,
THIRUCHENDUR, THOOTHUKUDI DISTRICT.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
- 3 THE INSPECTOR OF POLICE
KULASEKARAPATTINAM POLICE STATION, TUTICORIN DISTRICT.
- 4 THE INSPECTOR OF POLICE,
PERAMBALUR POLICE STATION,
PERAMBALUR.
- 5 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.13207 of 2021
Date :09/09/2021

MK/VR/SAR.IV/09.09.2021/3P/7C