



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

Date : 21/10/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI
CRL OP(MD). No.15326 of 2021

WEB COPY

1.Rafiq @ Mohammed Hasan Kadhiri
2.Dinakaran ... Petitioners/Accused Nos.2 & 3

Vs

State rep by
The Inspector of Police,
Thanjavur Medical College Police Station
Thanjavur District
Crime No.1151 of 2021 ... Respondent/Complainant

For Petitioners : Ms.V.Sujatha
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.1151 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/A2 & A3, who were arrested on 30.08.2021 for the offence under Sections 294(b) and 302 I.P.C, in Crime.No.1151 of 2021 on the file of the respondent police, seek bail.

2.The case of the prosecution is that one Senthilkumar was doing prostitution in N.S.P lodge with the immediate assistance of the deceased person. While so, on the date of occurrence, the petitioners and two others went to that lodge as customers, at that time, some other customers were engaged and as such, the deceased informed the accused persons to come later and having aggrieved over the same, the accused persons assaulted the deceased and caused his death. Hence, the complaint.

3.The learned counsel appearing for the petitioners would submit that even in the alteration report, there is no specific overt act as against the petitioners. The only averment is that the petitioners and two others were found to be rushing out of the place of occurrence. The very act of the petitioners does not mean that they have committed the crime as stated in the FIR and the petitioners have not used any weapons on the date of occurrence, however, he succumbed to death. She would further submit that the



petitioners are innocents and they have not committed any offence as alleged by the prosecution. The petitioners are in jail from 30.08.2021 and hence, she seeks for grant of bail.

4. The learned Additional Public Prosecutor appearing for the respondent police would submit that on the date of occurrence, these petitioners have assaulted the deceased with hands. He would further submit that the investigation is yet to be completed.

5. Considering the facts and circumstances of the case, the overt act attributed as against the petitioners and also the period of incarceration, this Court is inclined to grant bail to the petitioners.

6. Accordingly, this Criminal Original Petition is allowed and the petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Thanjavur and on further condition 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 petitioners shall appear before the respondent police daily at 10.30 a.m until further orders.

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

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

Sd/-
21/10/2021

/ 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 NO.II
THANJAVUR.
 2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
 3. THE OFFICER INCHARGE,
DISTRICT JAIL
PADUKOTTAI.
 4. THE INSPECTOR OF POLICE,
THANJAVUR MEDICAL COLLEGE POLICE STATION
THANJAVUR DISTRICT
 5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.V.SUJATHA, Advocate (SR-7269[I] dated 21/10/2021)

ORDER
IN
CRL OP (MD) No.15326 of 2021
Date : 21/10/2021

VB/JM/SAR-II/21.10.2021/3P/7C