WEB COPY

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

Date : 25/11/2021

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.18521 of 2021

Murugan ... Petitioner/Rank not known

Vs

State rep.by
The Inspector of Police,
Jeeyapuram Police Station
Jeeyapuram, Trichy District.
Crime No.1139 of 2020. ... Respondent/Complainant

For Petitioner : M/s.Arunraj K,
Advocate.
For Respondent : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor

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

PRAYER :- For Bail in Crime No.1139 of 2020 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/ Accused (Rank not known), who was arrested and remanded to judicial custody on 04.10.2021 for the offences punishable under Section 147, 148 and 302 of IPC, in Crime No.1139 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the villagers assaulted the 25 years old man of Kerala State. He sustained grievous injuries and he succumbed to the injuries. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner is in judicial custody from 04.10.2021 and co-accused have been granted anticipatory bail by this Court. Hence he prays to grant of bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that some of the co-accused were granted anticipatory bail.

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

5.The learned counsel for the petitioner has produced a copy of the order in Crl.OP.(MD)Nos.16105 & 17247 of 2021, dated 15.11.2021. It is seen from the order that anticipatory bail was granted to the 7 accused persons, in this case. This Court observed the following facts in paragraphs 8, 9 & 10, which are extracted here under:-

> *" 8.At the outset, it is pertinent to mention that the prosecution has attributed neither any previous enmity nor motive between the parties. Moreover, the deceased as well as another person, who accompanied the deceased to the said Village were totally unknown persons to the villagers including the petitioners. According to the prosecution, in the postmortem certificate, final opinion was given to the effect that the deceased would appear to have died due to head injury sustained. But, as rightly contended by the learned counsel for the petitioners, the prosecution is not sure as to whether the head injury was caused to the deceased due to the fall by himself or due to the attack made by the villagers.*
>
> 9.It is also not the specific case of the prosecution that the petitioners and others had necessary intention to kill the deceased nor necessary intention to cause such injuries that are likely to cause death. Even according to the prosecution, the deceased was attacked with stones and sticks. It is not their case that the weapons were used.
>
> 10.As rightly contended by the learned counsel for the petitioners, it is not the case of the prosecution that the villagers even at the beginning had surrounded the deceased, tied him and attacked him. According to the prosecution, the deceased had attacked villagers with wooden log and damaged the properties in the temple and also damaged the two wheelers. It is also not in dispute that one of the accused has already been arrested and confession statement was taken from him. It is also not the case of the prosecution that they have to unearth a larger conspiracy and that the properties are yet to be recovered."

6.In this case, admittedly, the petitioner herein is only the person arrested.

7.Considering the facts and circumstances of the case and considering the facts that the petitioner is in judicial custody from 04.10.2021 and that this Court has already granted anticipatory bail to the co-accused, this Court is inclined to grant bail to the petitioner subject to the following conditions:

https://hcservices.ecourts.gov.in/hcservices/

6.Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.III,Trichy.

i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity

ii) the petitioner shall report before the respondent police daily at 10.30 a.m until further orders.

iii)the petitioner shall not tamper with evidence or witness.

iv) the petitioner shall not abscond during trial.

v)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].

vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
25/11/2021

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

ORDER IN
CRL OP(MD) No.18521 of 2021
Date :25/11/2021

DSS
MS/VR/SAR-4/25.11.2021/3P.6C

https://hcservices.ecourts.gov.in/hcservices/