



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23.03.2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.5412 of 2022

1. V.Dhamodharan
2. T.Subramani

... Petitioners/ Accused No.1 & 2

Vs

State through,
The Sub-Inspector of Police,
Thiruthankal Police Station,
Virudhunagar District.
(Crime No.23 of 2022)

... Respondent/ Complainant

For Petitioners : Mr.G.Mariappan,
Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor.

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

PRAYER :-

For Bail in Crime No.23 of 2022 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners/accused, who were arrested and remanded to judicial custody on 28.01.2022 and 31.01.2022 respectively for the offence punishable under Section 174 Cr.P.C. altered into Section 302 IPC, in Crime No.23 of 2022, on the file of the respondent police, seek bail.

2.The case of the prosecution is that the defacto complainant is the wife of the deceased Karuppasamy. The deceased Karuppasamy borrowed a sum of Rs.26 Lakhs from one Thangaboopathi for purchasing a property. Thereafter, the first petitioner had frequently picked up quarrel with the deceased Karuppasamy by saying that the said Thangaboopathi sold the above said property to him. In this regard, the defacto complainant filed a suit. Due to that motive, on 27.01.2022 at about 05.30 p.m., when the deceased Karuppasamy went to the court, the petitioners herein have followed the deceased



Karuppasamy near ESI hospital at Sivakasi and they had indiscriminately assaulted the deceased with hands and pushed down and kicked him on his chest and thereby caused his death. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the deceased after selling his properties had been visiting him and harassing him as if he continues to be the owner of the property and the first petitioner's vendor Thangaboopathi had obtained fraudulent sale deed and that since the civil cases are pending between the parties, the defacto complainant has falsely implicated the petitioners in the present case.

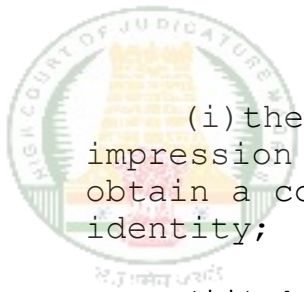
4.The learned Additional Public Prosecutor would submit that when the deceased had visited the house of the first petitioner, the first petitioner had attacked him and kicked him on his chest and that subsequently he became unconscious and when he was taken to Sivakasi Government Hospital, he was declared as brought dead and that the first petitioner himself, in his confession, specifically admitted the disputes between him and the deceased and the attack was made by him on the deceased on the fateful day.

5.The learned Additional Public Prosecutor would further submit that the deceased had mortgaged his property to one Thangaboopathi, that since he has not discharged the mortgage loan, the said Thangaboopathi had sold the property to the first petitioner and that thereafter the deceased had been visiting the house of the first petitioner and demanding him to return the property as if he had mortgaged the property to the said Thangaboopathi, but he had taken fraudulent sale. He would further submit that investigation is almost completed, that the viscera report is not yet received and that the petitioners are not having any bad antecedents.

6.No doubt, the earlier application for bail filed by the petitioners was dismissed by this Court in Crl.O.P.(MD)No.4258 of 2022 vide order dated 04.03.2022.

7.Considering the above facts and also the facts that the petitioners are in judicial custody from 28.01.2022 and 31.01.2022 respectively, that investigation is almost completed except receiving the viscera report and that the petitioners are not having any bad antecedents, this Court is inclined to grant bail to the petitioners with certain conditions.

8.Accordingly, 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, Sivakasi.



(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 petitioners shall report before the respondent police daily at 10.30 a.m., until further orders;

(iii) the petitioners shall not tamper with evidence or witness;

(iv) the petitioners 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 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]***.

(vi) If the accused / petitioners thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-

23/03/2022

/ TRUE COPY /

23/03/2022

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,
SIVAKASI.
 - 2 THE CHIEF JUDICIAL MAGISTRATE
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
 - 3 THE SUB INSPECTOR OF POLICE
THIRUTHANKAL POLICE STATION, VIRUDHUNAGAR DISTRICT
 - 4 THE OFFICER INCHARGE,
DISTRICT JAIL, VIRUDHUNAGAR.
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to M/S. MARIAPPAN.G. Advocate SR.No.2384.

ORDER IN

CRL OP(MD) No.5412 of 2022

Date : 23/03/2022

CSM

<https://hmcpcr.org.in/ncs/2022/3P/7C>