



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

Date : 22/04/2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.7351 of 2022

Ajishkumar

... Petitioner/Sole Accused

Vs

The State rep.by,
The Inspector of Police,
Boothapandy Police Station,
Boothapandy,
Kanyakumari District.
Crime No.60 of 2022.

... Respondent/Complainant

For Petitioner : Mr.S.Palani Velayutham,
Advocate.

For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)

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

PRAYER :-For Bail in Crime No.60 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Sole Accused, who was arrested and remanded to judicial custody on 28.02.2022 for the offences punishable under Sections 341, 294(b) and 307 IPC, in Crime No.60 of 2022, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that due to matrimonial dispute between the parties, the petitioner attacked the de-facto complainant with aruval and thereby, she sustained grievous injuries. Hence, the complaint.

3.When the matter was taken up for hearing on 18.04.2022, considering the submission made by the learned counsel for the petitioner that the Nagercoil Bar Association has passed a resolution directing its members not to appear for the petitioner, since the de-facto complainant is their member, this Court directed the Registry to call for a report from the Nagercoil Bar Association as to whether any resolution was passed or direction was issued by



the Association directing its members not to appear on behalf of the petitioner.

4. In pursuance of the same, the Nagercoil Bar Association has sent a letter stating that the Bar Association did not pass any such resolution.

5. The learned counsel for the petitioner would submit that though the bail application was filed before the learned District Judge, Nagercoil, Kanyakumari, nobody was allowed to argue the matter and hence, the petition was dismissed for non-prosecution. He would further submit that though the Bar Association has sent a reply stating that they have not passed any resolution, they have not allowed anyone to appear before the concerned Court and that they will restrain the Advocate from appearing for the petitioner indirectly.

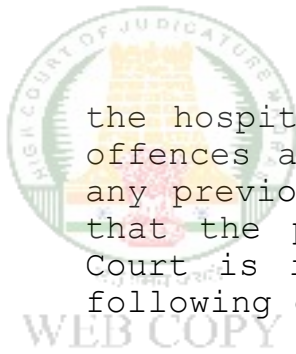
6. In ***Ganapathy and two others Vs. State rep. by the Inspector of Police, Karaikudi South Police Station in Crl.O.P.(MD)No.6833 of 2022, dated 19.04.2022***, in a similar matter, but where the concerned Bar Association has admitted the passing of the resolution, this Court has observed as follows:-

"...29. Considering the legal dictum laid down by the Hon'ble Supreme Court, this Court has no hesitation to hold that the resolution passed by the Karaikudi Bar Association dated 22.03.2022 restraining its members not to appear for the petitioners is illegal and null and void and the same has no force of law. No doubt, any attack on the advocates can't be viewed lightly and the same is to be condemned sternly and that the attackers are to be dealt with iron hands. But at the same time, the Bar Association is not expected to pass such a resolution, violating the Constitution and the Law of the land declared by the Hon'ble Supreme Court."

7. Considering the above facts and circumstances and also the way in which the petitioner's bail application was dismissed for default on the file of the Principal District Court, this Court is satisfied that there existed special reason for moving before this Court and accordingly, the permission sought for is granted.

8. The learned Government Advocate (Crl. side) would submit that the petitioner attacked the de-facto complainant, who is the wife of the petitioner and caused serious injury and that the injured was discharged from the hospital.

9. Considering the facts that there existed matrimonial dispute between the parties, that the injured was already discharged from



the hospital, that except the offence under Section 307 IPC, other offences are bailable in nature, that the petitioner is not having any previous case for similar or serious offence and also the fact that the petitioner is in judicial custody from 28.02.2022, this Court is inclined to grant bail to the petitioner subject to the following conditions:

11. 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, Radhapuram, Tirunelveli District.

(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 stay at Villupuram and report before the Inspector of Police, Villupuram Town Police Station, Villupuram daily at 10.30 a.m for a period of thirty days and thereafter, 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 / petitioner thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-
22/04/2022

/ TRUE COPY /

22/04/2022
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



TO

1 THE JUDICIAL MAGISTRATE,
RADHAPURAM, TIRUNELVELI DISTRICT.

2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

3 THE OFFICER INCHARGE,
DISTRICT JAIL, NAGERCOIL.

4 THE INSPECTOR OF POLICE
BOOTHAPANDY POLICE STATION, BOOTHAPANDY,
KANYAKUMARI DISTRICT.

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

COPY TO:

THE INSPECTOR OF POLICE,
VILLUPURAM TOWN POLICE STATION,
VILLUPURAM

+1. C.C. to Mr.S.PALANIVELAYUTHAM, Advocate SR.No.3729.

ORDER

IN

CRL OP(MD) No.7351 of 2022

Date :22/04/2022

SJI

MK/VR/SAR.II/22.04.2022/4P/8C