



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 26/05/2022
PRESENT

The Hon`ble Mr.Justice P.VELMURUGAN

CRL OP(MD) . No.9655 of 2022

John Paul @ Subash

... Petitioner/Sole Accused

Vs

The State rep.by
The Inspector of Police,
Karungal Police Station,
Kanyakumari District.
Crime No.120 of 2022.

... Respondent/Complainant

For Petitioner : M/s.A.RAJKUMAR SEN,
Advocate.

For Respondent : Mr.RMS.SETHURAMAN,
Additional Public Prosecutor

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

PRAYER :- For Bail in Crime No.120 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 15.04.2022 for the alleged offences under Sections 294(b), 392, 307 and 506(ii) of IPC, in Crime No.120 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that when the complainant and his friends were proceeding on the road towards Karungal near Paramananthapuram CSI church, the petitioner waylaid the defacto complainant, inserted his hand in to pocket of the defacto complainant and taken a sum of Rs.1800/- which was protested by the defacto complainant. Immediately the petitioner took a long knife and threatened to kill the defacto complainant and due to the intervention of the neighbors, the defacto complainant escaped. Immediately he lodged the complaint before the respondent police, for which the respondent police registered a case in Crime No.120 of 2022.



3. It is the case of the petitioner that there is no injury therefore the section 307 of IPC would not attract and the money was also not recovered from the petitioner. He would further submit that the petitioner is in judicial custody from 15.04.2022, hence he seeks bail.

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4. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and perused the records carefully.

5. When the matter is taken up for hearing on 25.05.2022, this Court raised a query regarding as to whether the money recovered from the petitioner was produced before the learned Magistrate or not. For which the respondent police has stated that they have produced the Form-95 and the same was returned. Subsequently it was represented and it was neither taken on file nor returned. Therefore the learned Judicial Magistrate, Eraniel was directed to appear before this Court on 26.05.2022.

6. As directed by this Court, the learned Judicial Magistrate, Eraniel appeared before this Court and made a submission that she has made an endorsement in the Form -95 submitted on 15.04.2022. Endorsement shows that Form 95 was returned and directed to be produced on the next working day along with the property and subsequently the police has produced the same and it was also returned. The amount was recovered from the petitioner on the same day and the knife was also recovered from the petitioner and the same was produced before the Court.

7. The learned counsel for the petitioner submitted that there is no injury to attract the offence under Section 307 of IPC. For attracting the said offence, injury is not mandatory, life threat is enough. Reading of the First Information Report shows that there is a specific overt act as against the petitioner, therefore this Court is not inclined to grant bail to the petitioner.

8. Hence the petition stands dismissed. However the respondent police is directed to submit the Form-95 along with the recovered amount of Rs.1800/- before the learned Judicial Magistrate, Eraniel on 27.05.2022. On receipt of the same, the learned Magistrate is directed to receive the same, if it is otherwise in order.

9. Further the respondent police is directed to complete the investigation and file the charge sheet within a period of one month from today. In case if the respondent police files the charge sheet within a month, the learned Magistrate is directed to take the charge sheet on file and proceed further in accordance with law and expedite to commit the case to the Court of Sessions. In case if the charge sheet reveals that the offence is triable by the Court of Sessions, the learned Magistrate is directed to commit the case



immediately and the concerned Sessions Judge after committal is directed to proceed with the trial and dispose of the same within a short period, provided if all the exercises are completed within a period of six months from today.

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sd/-
26/05/2022

26/05/2022
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,
ERANIEL.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
- 3 THE VACATION SESSIONS JUDGE/SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
NAGERCOIL.
- 4 THE OFFICER INCHARGE
SUB JAIL, NAGERCOIL.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

Copy To:

THE REGISTRAR (JUDICIAL)
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER IN

CRL OP(MD) No.9655 of 2022
Date :26/05/2022

SA/PN/SAR.4/24.05.2022/3P/7C