



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 25/05/2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice P.VELMURUGAN

CRL OP(MD) . No.9638 of 2022

Mariselvam

... Petitioner/Sole Accused

Vs

State Rep.by
The Inspector of Police,
Cumbum South Police Station,
Theni District.
Crime No.115 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Murugappan R,
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.115 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 27.03.2022 for the alleged offences under Sections 341,294(b) and 302 of IPC, in Crime No.115 of 2022 on the file of the respondent police, seeks bail.

2.The main allegation against the petitioner is that he waylaid the deceased and stabbed him with knife, due to which the deceased sustained injuries. On hearing the information the wife of the deceased went to the hospital and the doctor declared that he was brought dead and therefore she has lodged the above complaint against the petitioner and the respondent police has registered the above case and arrested the petitioner.

3.The petitioner has already filed a bail application before the learned Principal Sessions Judge, Theni in Crl.M.P.No.1617 of 2022 and the same was dismissed by the learned Judge on 25.04.2022.



Therefore the petitioner has filed a present petition by way of this Criminal Original Petition before this Court.

4.The learned counsel for the petitioner would submit that the petitioner is the sole accused and he is a physically challenged person and there is no eyewitness to the said occurrence. The wife of the deceased is the defacto complainant and she is only a hearsay witness. He would also submit that there is suspicion that the wife of the petitioner and the deceased had illegal intimacy , therefore a false case has been registered against him. He would also submit that since the petitioner is the physically challenged person, he will not abscond from his native place and also ready to abide by any conditions imposed by this Court, hence he seeks bail.

5.The learned Additional Public Prosecutor appearing for the State would submit that the petitioner stabbed the deceased with knife and he died in the spot itself. Further his wife has lodged complaint and the investigation is in the preliminary stage.

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

7.Admittedly in this case the wife of the deceased is the defacto complainant and there is no eye witness to the said occurrence and she is only an hearsay evidence. Whether the petitioner is involved in this case or not would be revealed only during investigation. Taking into consideration the fact that the petitioner is a physically challenged person and he cannot move from the place and the possibility of absconding is less and also considering the fact that there is no specific overt act against the petitioner, except the fact that the defacto complainant is the wife of the deceased and she is only a hearsay witness and also considering the fact the petitioner is in judicial custody for more than 58 days, this Court is inclined to grant bail to the petitioner by imposing following conditions:-

[a]the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.1,00,000/- (Rupees One lakh only) with two sureties each for a like sum to the satisfaction of the Learned Judicial Magistrate, Uthamapalayam, Theni District.

[b]the petitioner shall report before the learned Judicial Magistrate, Uthamapalayam, Theni District, daily at 10.30 a.m., until further orders.

[c]the petitioner shall appear before the Respondent Police, as and when required for interrogation.

[d]the petitioner shall not abscond either during investigation or trail.

[e]the petitioner shall not tamper with evidence or witness either during investigation or trail.

[g] If

8. Since complainant is the wife of the deceased, the respondent police is directed to complete the investigation within a period of one month and file a charge sheet before the concerned Court.

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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.

Date : 25/05/2022