



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 17/06/2022
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.10212 of 2022

K.Selvaraj

... Petitioner/9th Accused

Vs

The State rep.by
The Sub Inspector of Police,
Munnerpallam Poilce Station,
Tirunelveli District.
Crime No. 128/2022.

... Respondent/Complainant

Vijay

... Petitioner/Victim
In Crl.MP(MD).6756/2022
in Crl.OP(MD).10212/2022

For Petitioner : Mr.S.RAM SUNDAR VIJAYARAJ, Advocate
for Mr.K.SHARAN, Advocate

For Respondent : Mr.B.THANGA ARAVINDH,
Government Advocate (Crl.Side)

For Intervenor : Mr.T.LENIN KUMAR, Advocate

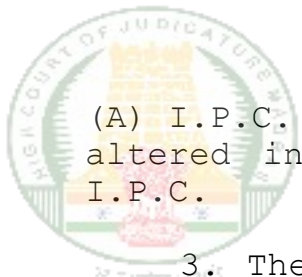
PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :- For Bail in Crime No. 128 of 2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/accused No.9, who was arrested and remanded to judicial custody on 20.05.2022 for the offences punishable under Sections 336, 337, 304II I.P.C., in Crime No.128 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 14.05.2022 at about 11.00p.m., when the defacto complainant and his colleagues were engaged in quarrying operation, a large size stone was moved and rolled into the pit, that the defacto complainant and six others trapped under the stone and some others caught under the stone and buried. Hence, the present complaint and the case was registered in Cr.No.128 of 2022 for the offences under Sections 336, 304 and 304



(A) I.P.C. It is not in dispute that subsequently, the case was altered into for the offences under Sections 336, 337 and 304II I.P.C.

3. The petitioner's case is that he is the owner of the lands in S.Nos.844, 848 and 849/2 of Tharuvai Village, Palayamkottai Taluk, Tirunelveli District, that he leased out the said lands to one Sankaranarayanan, that the said lessee Sanakranarayanan made an application to the District Collector in the year 2016 for running the quarry and after getting licence, he has been quarrying the lands of the petitioner, that the petitioner is not having any authority in mining operation in those lands, that the petitioner was not physically present at the time of alleged incident and also not having direct knowledge about the incident and that the petitioner is only a lessor.

4. The learned Counsel for the petitioner would submit that the petitioner is aged about 82 years and is having serious ailments like spinal disc problem and breathing problem after the covid infections and that the petitioner is in judicial custody from 20.05.2022.

5. It is not in dispute that in the said occurrence, 4 persons were dead and three persons sustained injuries.

6. The learned Counsel for the petitioner would submit that a sum of Rs.15,00,000/- was paid as compensation for the death of four persons to their legal heirs and a sum of Rs.3,00,000/- each has been paid to the injured persons.

7. One of the injured viz., Vijay filed an intervening petition raising objection for granting bail to the petitioner. It is the case of the intervenor/injured that the injuries sustained by him are serious in nature, because the broken rock fell on his backside of the body and caused injury on his spine, that the Government hospital authorities at the instance of the petitioner, forcibly discharged the intervenor from the hospital and dropped him in his house and that the petitioner is an influential person politically and monetarily and they are trying to tamper with the witnesses.

8. It is the further case of the intervenor that the State Government has already directed to conduct probe into the occurrence took place in the quarry, that in the event if the petitioner is released on bail, there is every chance of interfering with the probe by the petitioner and there will be a hurdle for authorities to ascertain the truth and violation committed by the petitioner, that the petitioner has not only violated the rules in conducting the quarry operation but also employed the labours in violation of the labour laws, that the investigation is in initial stage and that therefore, the petitioner is not entitled to be enlarged on bail.



9. The Assistant Superintendent of Police, Nanguneri Sub Division has filed counter affidavit raising objections to enlarge the petitioner on bail.

10. The learned Government Advocate (Crl.Side) appearing for the State would submit that despite the lessee being Shankar Narayanan, the real day to day operations were managed by the petitioner and Kumar, who are the owners, that all the profits coming from the quarry went into the accounts owned by Selvaraj and Kumar, while the lessee was just a benami holder, who was given a meagre monthly salary and that their investigation revealed that the quarry was running without requisite transmit permit and in violation of the licence, which would amount to theft under Section 379 I.P.C. Moreover in the counter, it has been stated that the family of the deceased were paid Rs.15,25,000/- each and they were forced to sign upon papers.

11. The learned Counsel for the petitioner would submit that Rs.3,00,000/- each has already been paid to the injured including the intervenor and that after receiving the said amount, he has now filed the above intervening petition and raising objections with an intention to extract more money.

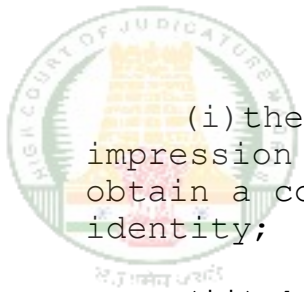
12. The petitioner's side has produced additional typed set enclosing the receipts allegedly issued by the legal heirs of the deceased and the injured persons, which includes the receipt allegedly signed by the intervenor.

13. But the learned Counsel for the intervenor would submit that since the intervenor has refused to receive the amount, they have approached his family members and compelled them to receive the amount, who in turn compelled the intervenor to sign the receipt.

14. As rightly contended by the learned Counsel for the petitioner, though the prosecution has alleged that the legal heirs and the injured were forced to sign upon the papers, it is not their case that the legal heirs and the other injured have raised objections or that they have not received the payments.

15. Considering the above facts and circumstances of the case and also the fact that the petitioner is in judicial custody from 20.05.2022 and also taking note of the payments made to the legal heirs of the deceased and injured and also taking note of the age of the petitioner at 80 years and his ill-health, this Court is inclined to grant bail to the petitioners on certain conditions:

16. Accordingly, the petitioner is ordered to be released on bail on her 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.V,



(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 Trichy and appear before the Cantonment Police Station daily at 10.30 a.m. for a period of thirty (30) days and thereafter appear before the respondent police 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/-
17/06/2022

/ TRUE COPY /

17/06/2022
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.V,
TIRUNELVELI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI.



4 THE SUB INSPECTOR OF POLICE,
MUNNERPALLAM POILCE STATION,
TIRUNELVELI DISTRICT.

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

COPY TO:

THE INSPECTOR OF POLICE
CANTONMENT POLICE STATION,
TRICHY DISTRICT.

ORDER

IN

CRL OP(MD) No.10212 of 2022
Date :17/06/2022

SA/PN/SAR.1/17.06.2022/5P/7C