



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 25/07/2022

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD). No.12593 of 2022

WEB COPY

1. Thirumalaikumar

2. Kali

... Petitioners/Accused No.5&6

Vs

The State rep.by,
The Inspector of Police,
Puliyarai Police Station,
Tenkasi District
(Crime No. 151 of 2022).

... Respondent/Complainant

For Petitioners : Mr.Anand.R,
Advocate.

For Respondent : Mr.B.Thanga Aravindh,
Government Advocate (Crl.Side)

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

PRAYER :-

For Bail in Crime No.151 of 2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners are facing charges under Sections 147, 342, 294 (b), 307 and 506(ii) IPC in Crime No.151 of 2022 the file of the respondent police.

2.The case of the prosecution in brief is as follows:-

3.The defacto complainant lodged a complaint stating that on 16.06.2022 at about 01.45 pm., when he was alone in the house, the accused persons came there. They abused the defacto complainant and also threatened him that he should not give evidence against them.

4.The accused, namely Uthaykumar and Balakrishnan tried to kill the defacto complainant by knotting the towel. So, based upon the complaint given by the defacto complainant, the aforesaid case was registered. Seeking bail, the petitioners/A5 and A6 have filed this petition on the ground that they were arrested and remanded to custody on 28.04.2022.

<https://www.mhc.trgovt.in/judis> background of the case is as follows:-



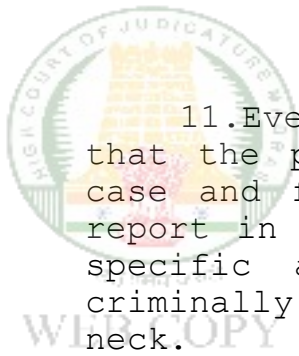
6. There was enmity between Uthaykumar, Thirumalaikumar and the defacto complainant's party over the fishing rights. Over the aforesaid enmity, in 2015 the accused person killed 6 persons including the defacto complainant's brother. Over the aforesaid occurrence, a murder case was registered and the trial is undertaken. In the aforesaid murder case, the defacto complainant's one other brother, namely Hariharan was the eye witness and Hariharan was threatened by the accused persons not to give evidence. They also caused murder of Hariharan in 2017. Murder was committed by Uthaykumar, Balakrishnan, Mahesh, Sangili and Navaskhan. That murder case is also pending. The defacto complainant is the witness in the aforesaid 2017 occurrence. He was also threatened by the accused persons not to give evidence against them. In pursuance of the above only, the present occurrence said to have taken place.

7. The learned counsel for the petitioners would submit that absolutely a false complaint has been given and after the aforesaid murder case, the petitioners and others vacated the village, went away and were residing away from the occurrence village. To show the same, they also produced a copy of the lease agreement that was entered between the accused, Kali and other persons.

8. According to them, the real occurrence was that after several years, the accused persons came to a temple festival. Noting the movement of the accused persons, out of fear only, the defacto complainant alleged to have given a complaint by giving false information. So, according to them, the very offence as stated by the defacto complainant is highly unbelievable and unnatural one.

9. According to them, since this is a false case, the petitioners are ready to stay away from the place of occurrence and to abide by any conditions that may be imposed by this Court. May be that out of fear, such complaint has been given by the defacto complainant, whether it is true or not is a matter for consideration during investigation and trial. Already two murders took place over the previous motive.

10. The defacto complainant already lost his two brothers as stated above and he is the only living eye witness. He was also alleged to have threatened. When such being the complaint and if the petitioners are released on bail, again there is every likelihood of tampering the evidence. Apart from that, it is seen that the accused, Kali is having bad antecedents and is having several cases at his credit and 107 and 110 proceedings of Cr.P.C. have been initiated against him by the revenue officials. So, such being the character of the accused, Kali, even though the petitioners are in custody for more than 50 days, I am of the considered view that they are not entitled for bail, in view of the aforesaid bad antecedents of the accused.



11. Even though the learned counsel for the petitioners is that the petitioners are not the accused in the aforesaid murder case and for that purpose, he also produced a copy of the final report in Crime No.11 of 2017, now, whatever it may be, there was specific allegation to the effect that this petitioners also criminally intimidated and tried to tighten the towel around the neck.

12. This Criminal Original Petition deserves to be dismissed and accordingly, dismissed.

sd/-
25/07/2022

/ TRUE COPY /

/07/2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

MM

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 SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
2. THE INSPECTOR OF POLICE,
PULIYARAI POLICE STATION, TENKASI DISTRICT
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.12593 of 2022
Date :25/07/2022

RK/JM/SAR-III/28.07.2022/3P/4C