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

Dated: 26/10/2022

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN

Crl.OP (MD) Nos.14684, 18405 to 18408 of 2022

(1)Crl.OP(MD)No.14684 of 2022:-

1.Manikanda Prabu
2.Harikumar

: Petitioners/Accused No.5&6

Vs.

1.State Rep. Through
The Inspector of Police,
M.Pudhupatti Police Station,
Virudhungar District,
(Crime No.46 of 2022)

: Respondent/Complainant

2.Duraipandi

: Petitioner/Intervener/
Defacto Complainant
in Crl.MP(MD) No.9816/2022 in
Crl.OP(MD) No.14684/2022.

For Petitioner : Mr.S.M.A.Jinnah, Advocate

For Respondent : Mr.RMS.Sethuraman
Additional Public Prosecutor

For Intervenor : Mr.B.Jeyakumar, Advocate

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

PRAYER:-

For Bail in Crime No.46 of 2022 on the file of the Respondent Police.

(2)Crl.OP(MD)No.18405 of 2022:-

Jothilingam

: Petitioner/Accused No.14

Vs.

State Rep. Through
The Inspector of Police,
M.Pudhupatti Police Station,
Virudhungar District,
(Crime No.46 of 2022)

: Respondent/Complainant



For Petitioner : Mr.J.Jeyakumaran, Advocate
For Respondent : Mr.RMS.Sethuraman
Additional Public Prosecutor

WEB COPY PETITION FOR BAIL under Sec.439 of Cr.P.C.

PRAYER:-

For Bail in Crime No.46 of 2022 on the file of the Respondent Police.

(3)Crl.OP(MD)No.18406 of 2022:-

Soundarapandian : Petitioner/Accused No.15
Vs.

State Rep. Through
The Inspector of Police,
M.Pudhupatti Police Station,
Virudhungar District,
(Crime No.46 of 2022) : Respondent/Complainant

For Petitioner : Mr.R.Anand, 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.46 of 2022 on the file of the Respondent Police.

(4)Crl.OP(MD)No.18407 of 2022:-

R.Anthony @ Anthonyraj : Petitioner/9th Accused
Vs.

State Rep. Through
The Inspector of Police,
M.Pudhupatti Police Station,
Virudhungar District,
(Crime No.46 of 2022) : Respondent/Complainant

For Petitioner : Mr.S.Selvakumar, 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.46 of 2022 on the file of the Respondent Police.

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(5)Crl.OP(MD)No.18408 of 2022:-

V.Lakshmi Narayanan @ Line Karuppu : Petitioner/Accused No.7

Vs.

State Rep. Through
The Inspector of Police,
M.Pudhupatti Police Station,
Virudhungan District,
(Crime No.46 of 2022)

: Respondent/Complainant

For Petitioner : Mr.V.Kathirvelu, Senior counsel
for Mr.S.M.A.Jinnah, Advocate
For Respondent : Mr.RMS.Sethuraman
Additional Public Prosecutor

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

PRAYER:-

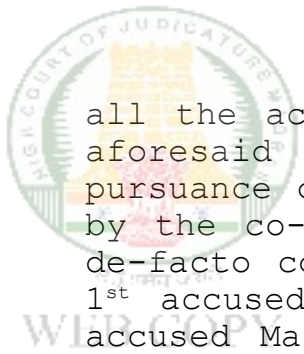
For Bail in Crime No.46 of 2022 on the file of the Respondent Police.

COMMON ORDER : The Court made the following order:-

The petitioner in Crl.OP(MD)No.14684 of 2022, who are arrayed as A5 and A6 were arrested on 31/03/2022; the petitioner in Crl.OP(MD)Nos.18405 and 18406 of 2022, who were arrayed as A14 and A15 were arrested on 06/06/2022; the petitioner in Crl.OP(MD)No.18407 of 2022, who is arrayed as A9 was arrested on 12/06/2022 and the petitioner in Crl.OP(MD)No.18408 of 2022, who is arrayed as A7 was arrested on 31/03/2022 and they were remanded to judicial custody for the offences 120(B), 147, 148, 341, 342, 324, 302, 506(ii) IPC r/w 109 IPC, in Crime No.46 of 2022 on the file of the respondent police, seek bail.

2.The facts in brief:-

In 2021, there was dispute between Navaneethakrishnan and the deceased Aravindhnan. Both were loadman. Because of the aforesaid issue, Navaneethakrishnan was murdered by the deceased Aravindhnan and others. So the friends of the aforesaid Navaneethakrishnan wanted to revenge the murder before the first year anniversary. So



all the accused persons conspired together and wanted to murder the aforesaid Aravindhan on 29/03/2022. However, on 30/03/2022, in pursuance of the aforesaid conspiracy, on the information furnished by the co-accused, the main accused followed the deceased and the de-facto complainant. At about 05.00 pm, the murder occurred. The 1st accused namely Arunpandian caused assault with Aruval. The 2nd accused Mareeswaran also caused assault with Aruval. The deceased Aravindhan tried to escape, but the accused namely Arunpandian, Mareeswaran, Parthiban, Muthukrishnan, Manikandaprabhu and Harikumar surrounded him and caused severe assault with Aruval. All the accused persons escaped from the place of occurrence, when the neighbours gathered.

3. Based upon the complaint given by the de-facto complainant, the aforesaid case has been registered and after completing the formalities of investigation, the involvement of 16 persons came to be found. So they were charge sheeted before the committal court and now, committal process is over.

4. Seeking bail, these petitions have been filed through separate advocates and a common order is passed after hearing the learned respective counsels and intervenor.

5. A batch of petitions in Crl.OP(MD)No.12194 of 2022 and others were filed by A7, A8, A9, A11, A12, A13, A14 and A16 seeking bail. All the matters were heard together and a common order has been passed by this court, dated 25/07/2022, dismissing all the applications observing that it is a case of brutal retaliation; the Investigating Officer was also present before this court at that time and informed the court that two groups of people were operating among the load men and the power of superiority was the main cause for the rivalry between two groups, over which one Navaneethakrishnan was murdered by the other group; to retaliate the above said murder of Navaneethakrishnan on the first death anniversary, the deceased was assaulted, who belonged to other group, was done to death by all the accused persons. Noting that it is a case of revenge murder, considering the seriousness of the allegations, the above said applications were dismissed.

6. Now the present petitions have been filed by A5, A6, A7, A9 and A14 and A15. Among the petitioners, A5 and A6 are the new petitioners before this court. This is the factual ground. Let us take the independent submission that has been made by each accused.

7. **Crl.OP(MD)No.14684 of 2022:** The learned counsel appearing for the petitioner would submit that even as per FIR, only 4 persons, who are known are mentioned. In so far the petitioners are concerned, their name were not mentioned in the FIR. It has been mentioned that six unknown persons caused the assault; Even in the statement of the de-facto complainant recorded under section 161 Cr.P.C. the name of these petitioners were not mentioned; No



identification parade was also conducted by the Investigating Officer to identify the persons, who are involved in the above said attack.

8.Per contra, the learned Additional Public Prosecutor would submit that even in the FIR itself, it has been specifically stated that six persons surrounded the deceased and caused the assault.

9.Reading of the FIR shows that four persons name has been identified by the deceased himself and informed to the de-facto complainant.

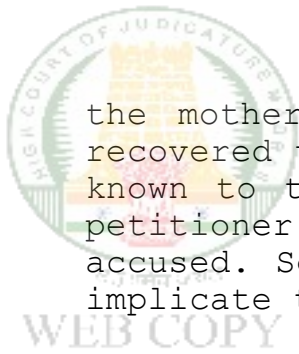
10.**Crl.OP(MD)No.18408 of 2022:-** The learned Senior counsel appearing for the petitioner would submit that now the committal process is over and in so far as this petitioner is concerned, section 120-B IPC is not at all attracted; PW13 and PW14 spoken about the further course of events; At the worst, sections 211 and 212 IPC wordy will be made out against the petitioner.

11.According to the learned Senior counsel, allegations that are mentioned in the FIR are not sufficient to rope the petitioner into the offence under section 120-B IPC, since he is not having any motive with the deceased.

12.**Crl.OP(MD)No.18407 of 2022:** The learned counsel appearing for the petitioner would submit that no serious allegation has been made against the petitioner. There was no motive also. Only after a month, the statement was recorded under section 161 Cr.P.C. Even at that time, no implication was made against this petitioner and only in the second statement, it has been stated as if some whatsapp messages were received stating that this petitioner is also involved in the above said occurrence. The above said mobile phone and whatsapp messages were received stating that this petitioner is also involved in the above said occurrence. But the above said mobile phone and whatsapp messages were not recovered during the course of investigation. Even if there is a whatsapp message that will not create any criminal liability upon this petitioner.

13.**Crl.OP(MD)No.18405 of 2022:-** The learned counsel appearing for the petitioner would submit that only bald allegation has been made against this petitioner and absolutely, there is no enmity between him and the deceased.

14.**Crl.OP(MD)No.18406 of 2022:-** It has been submitted by the learned counsel appearing for the petitioner that on 05/06/2022, the present Investigating Officer took up the investigation, recorded the statement of the relatives of the deceased and at that time only, it was noticed that some whatsapp messages were exchanged and later, it was also deleted. The son of the deceased examined about the whatsapp messages. Actually, on the basis of the statement of



the mother of the deceased, this petitioner has been impleaded, recovered the conversation that was recorded; Since A1 to A4 already known to the son of the deceased, there was no necessity for this petitioner to share the photographs of the deceased with the main accused. So according to him, these materials are not sufficient to implicate this petitioner into the offence.

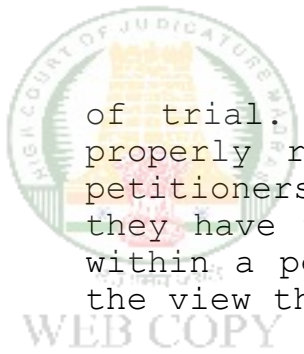
15.Per contra, the learned Additional Public Prosecutor would submit that it is a case of clear retaliation and section 120-B IPC has also been made out as mentioned in the final report. Now the committal process is over and the trial is going on day today basis; The coordinate Bench of this court has directed the trial court to expedite the trial process and complete the same within a period six months. According to the learned Additional Public Prosecutor, since already there was a direction by the coordinate Bench of this court, which equally applies to these petitioners also and they must be directed to cooperate with the trial court to complete the process of trial and the bail at this stage may not be proper.

16.The learned counsel appearing for the de-facto complainant would submit that he was also accompanying the deceased at the time of the above said assault. He also got injury. He is the only eye witness to the occurrence. Since already, it is a case of retaliation, if all the petitioners are enlarged on bail, then his life will also be in danger.

17.As mentioned earlier, a detailed order has been passed by this court, after going through the entire records. The answer to all the argument that was advanced by the respective counsels can be found out from the CD file. The conversations that took place between some of the accused persons right from the movement of watching, till killing, after the attack has been retrieved from the respective phones of the accused persons. It is also available in the CD file. When we go through the conversation, then it can be safely concluded that all the argument that has been advanced by the petitioners deserve to be rejected.

18.Elaboration of the conversation that took place between the accused persons during the above said murder may not be proper, since it may cause prejudice in the mind of the prosecution and defence as well as the trial court. So, I am not elaborating the conversation.

19.As mentioned earlier, right from the movement of the deceased leaving the place, the accused persons were following and every movement location has been shared between the accused persons and even one of the accused persons was giving instructions to A1 to cause the assault in a particular part of the body of the deceased. Such a meticulous planning and instructions were carried on. So, I am not convinced of any of the grounds that are raised in the petition. All the matters can be considered only during the course



of trial. The mobile phone and the whatsapp messages have been properly retrieved. So, I am of the considered view that these petitioners deserve no consideration for bail. As mentioned earlier, they have to cooperate with the trial process to complete the same within a period of six months. I find no new ground to differ from the view that was taken in the earlier application.

20. In the result, all the criminal original petitions are **dismissed**.

sd/-

26/10/2022

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/10/2022

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

TO

1. THE PRINCIPAL DISTRICT & SESSIONS JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
2. THE INSPECTOR OF POLICE
M.PUDHUPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
3. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
4. THE OFFICER-INCHARGE,
DISTRICT JAIL, VIRUDHUNAGAR.
5. THE OFFICER-INCHARGE,
SUB-JAIL, VIRUDHUNAGAR.
6. 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)Nos.14684, 18405
to 18408 of 2022

Date : 26/10/2022

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<https://www.mca.gov.in/csr> UCM/SDN/SAR-I/31.10.2022/7P/8C