



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 28/11/2022
PRESENT

WEB COPY

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.20792 of 2022

Veerasubbu . .. Petitioner/Accused No.1

Vs.

State through
The Inspector of Police,
S.S.Colony Police Station,
Madurai.
Crime No.633/2014.

... Respondent/Complainant

For Petitioner : Mr.M.Karunanithi,
Advocate.

For Respondent : Mr.K.Sanjai Gandhi,
Government Advocate(Criminal Side)

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

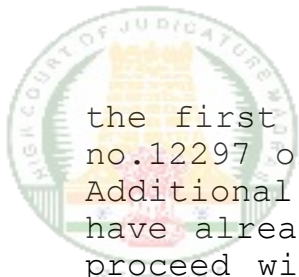
PRAYER :- For Bail in Crime No.633 of 2014 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused is facing a case for the offences under Sections 147, 148, 342, 302 of I.P.C @ 120(b), 109, 147, 148, 302, 341, 201 and 212 of I.P.C r/w Sections 4 and 5 of Explosive Substances Act, 1908, in S.C.No.195 of 2018, on the file of the learned VI Additional Sessions Judge, Madurai, in Crime No.633 of 2014, on the file of the respondent Police, seeks bail.

2.The case of the prosecution is that the deceased Andiappan was the President of VKP Nagar Welfare Association and the third accused was the Vice President of the said association, that there existed some previous enmity between the deceased and the third accused and that on 13.05.2014, the accused brutally attacked the deceased with deadly weapons at the instigation of the third accused, due to that, the deceased died on the spot. Hence, the complaint.

3.It is evident from the records that while considering the bail application of the co-accused, this Court has directed the trial Court to complete the trial and dispose of the case as expeditiously as possible preferably within a period of three months from the date of receipt of copy of that order. Subsequently, when



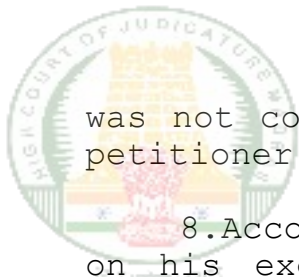
the first accused has moved an application for bail in Cr. no.12297 of 2022, taking note of the submission made by the learned Additional Public Prosecutor that 30 witnesses, out of 48 witness, have already been examined, this Court directed the trial Court to proceed with the trial and dispose of the case within a period of four weeks from the date of receipt of copy of that order. Thereafter, the first accused has again filed a petition in CrI.O.P. (MD)No.16430 of 2022, this Court, while dismissing the petition, directed the trial Court to dispose of the case on or before 12.10.2022. Since the trial was not completed, the first accused has again filed an application in CrI.O.P.(MD)No.18584 of 2022, seeking bail and this Court, considering the submission of the learned Additional Public Prosecutor that the exhibits, which were already marked before the trial Court, are not in order and as such, the trial Court was not in a position to proceed with the proceedings under Section 313 Cr.P.C, by holding that the examination of the witnesses have already been completed and the case was then pending for the proceedings under Section 313 Cr.P.C and also the fact that though this Court has already fixed the time limit for completion of the trial thrice, the same was not complied with, has passed an order, dated 19.10.2022, granting bail to the first accused with some stringent conditions and also directed the trial Court to complete the trial within a period of 15 days from the date of receipt of copy of that order.

4.It is not in dispute that since the petitioner has not turned up for hearing on 26.08.2021, NBW was ordered to be issued and that NBW was executed and the petitioner was arrested on 31.08.2021 and he is in judicial custody.

5.When the matter is taken up for hearing today, the learned Government Advocate (Criminal Side) would submit that the case was posted for judgment on 18.11.2022 and on that day, the case was reopened on the ground that the charge framed papers were found missing in the case bundle and that the learned Additional District and Sessions Judge posted the case for further proceedings on 25.11.2022 and that the case stands now posted to 06.12.2022 and that the learned Additional District and Sessions Judge has submitted a letter to the Principal District Court for reconstruction of charge framing orders. He would further submit that the petitioner is having 11 previous cases.

6.The learned counsel for the petitioner would submit that seven cases were already disposed of and that he was released on bail in other cases.

7.Considering the above facts and circumstances of the case and also the fact that the examination of the witnesses and the proceedings under Section 313 Cr.P.C have already been completed and also taking note of the fact that though this Court has already fixed the time limit for completion of trial four times, the same



was not complied with, this Court is inclined to grant bail to the petitioner subject to the following conditions.

8. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate No.V, Madurai.

(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 appear before the concerned Court on all working days at 10.00 am and 05.00 pm 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/-

28/11/2022

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28/11/2022

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

TO

1 THE JUDICIAL MAGISTRATE NO.V, MADURAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

4 THE INSPECTOR OF POLICE,
S.S.COLONY POLICE STATION, MADURAI.

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

+1. CC to M/S. KARUNANITHI.M. Advocate SR.No.13801

ORDER IN

CRL OP(MD) No.20792 of 2022

Date : 28/11/2022

das

SA/SSS/SAR. /28.11.2022/3P/7C

<https://www.mhc.tn.gov.in/judis>