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CRL OP(MD). A



22

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 30/11/2022

PRESENT

The Hon`ble Mr.Justice A.A.NAKKIRAN

CRL OP(MD). No.21153 of 2022

M.Jenitha

... Petitioner/Accused No.1

Vs

State Rep.by
The Inspector of Police,
Rajapalayam South Police Station,
Virudhunagar District.
(Crime No.294 of 2022).

... Respondent/Complainant

For Petitioner : M/s.Rajaboopathy D, Advocate.
For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

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

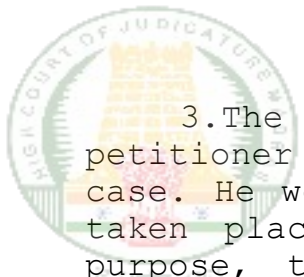
PRAYER :-

For Bail in Crime No.294 of 2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested and remanded to judicial custody on 16.10.2022 for the offences punishable under Sections 109 & 302 IPC, in crime No.294 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the defacto complainant is the Village Administrative Officer, Puthupalayam Village, Rajapalayam Taluk. On 16.10.2022, at about 12.30 a.m, the village assistant namely, Tirupati contacted him through phone and informed that 60 years old man was found dead at east side of Rajapalayam new bus stand. On enquiry, it was found that, two days prior to the occurrence, the petitioner's mobile phone was missing in the bus stand. The deceased person had stolen the said phone. When the same was came to the knowledge of the petitioner, he along with other accused attacked the deceased with hands and caused severe blood injuries. Due to which, he died on the spot. Hence, the complaint.



3.The learned counsel for the petitioner would submit the petitioner is innocent and he has been falsely implicated in this case. He would further submit that there is no such occurrence was taken place as alleged by the prosecution. Only on statistical purpose, the petitioner's name was implicated in this case. No previous case is pending against the petitioner and the petitioner is in judicial custody from 16.10.2022, hence he may be released on bail.

4.The learned Additional Public Prosecutor would submit that totally 4 accused are involved in this case. The petitioner was arrayed as A1. A4 is juvenile. He was arrested and later, released on bail. The petitioner herein is a trans-gender. The deceased is aged about 70 years. Viscera report is not yet received. 17 witnesses have been examined in this case. The investigation is still pending. Hence, he strongly opposed to grant bail.

5.Considering the period of incarceration and also considering the fact that 17 witnesses have been examined in this case, this Court is inclined to grant bail to the petitioner on certain conditions.

6.Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail, on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate Court, Rajapalayam, Virudhunagar District.

(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 report before the respondent police daily at 10.30 a.m., 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].

sd/-

30/11/2022

/ TRUE COPY /

30/11/2022

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, 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.

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- TO
- 1 THE JUDICIAL MAGISTRATE, RAJAPALAYAM, VIRUDHUNAGAR DISTRICT.
 - 2 DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR.
 - 3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
 - 4 THE INSPECTOR OF POLICE, RAJAPALAYAM SOUTH POLICE STATION,
VIRUDHUANGAR DISTRICT.
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.D.RAJABOOPATHY, Advocate (SR-14001[I] dated 30/11/2022)

ORDER
IN
CRL OP(MD) No.21153 of 2022
Date :30/11/2022

DSS
RS/VR/SAR.(30.11.2022) 3P-7C