



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

Date : 16/12/2022

PRESENT

WEB COPY

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD) . No.22238 of 2022

1. Appasamy
2. Rajasekar
3. Esakkimuthu
4. Sundar
5. Saravanan

... Petitioners/Accused
No.1 to 4 & 6

Vs

The State Rep. By,
The Inspector of Police,
Manur Police Station,
Tirunelveli District.
Crime No.120 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Maran M,
Advocate.

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

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

PRAYER :-

To enlarge the Petitioners on bail in SC.No.369 of 2022 on the file of the I-Additional District and Sessions Judge,Tirunelveli in Cr.No.120 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 to A4 and A6, who are facing a case for the offence under Sections 114, 147, 148, 149, 294(b), 302, 307, 324 and 506(ii) in S.C.No.369 2022 on the file of the learned I-Additional District and Sessions Judge,Tirunelveli in crime No.120 of 2022 on the file of the respondent police, seek bail.

2.The case of the prosecution is that on 20.04.2022 at around 03.30 p.m., one Rajapandi who is the brother of the de-facto

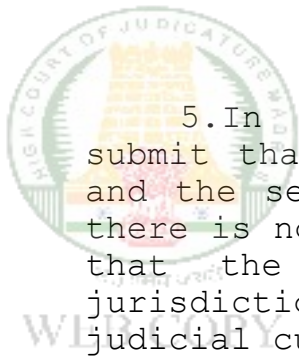
<https://www.mhc.tn.gov.in/judis>



complainant and his friends namely, Mayandi and Maharaja, were returning to their home after completing their duty in their two wheeler. When they came near Rastha Asari Amman temple they tried to dash the said Rajapandi's two wheeler. Thus, the said Rajapandi and his friends Mayandi and Maharajan scolded the said Sundar. Due to which quarrel occurred between them. The said Rajapandi informed the said incident to his brother namely the de-facto complainant. Thus, the de-facto complainant along with one Subramanian, his brother Rajapandi, Mayandi, Maharajan went to the Appasamy's piggery which is situated at Thulukkarpatti and they asked about the said incident. At that time, the accused persons abused the de-facto complainant and his associates in filthy language and attacked with deadly weapons. Due to the said attack made by the accused persons, the said Subramanian died on the spot and the de-facto complainant, Rajapandi and Mayandi sustained injuries. Thereafter, they were admitted in the Medical College, Hospital, Tirunelveli and gave a statement to the respondent police. After receiving the statement from the de-facto complainant, the respondent police registered a case against the accused persons.

3.The learned counsel appearing for the petitioners would submit that even as per the FIR, the de-facto complainant and his friends are the aggressors in this case, they have come to the piggery of the accused and they have started quarrel, during which time, the occurrence had happened. He would further submit that the de-facto complainant and his friends have assaulted the petitioners and thereby, the incident had happened. He would further submit that the petitioners were arrested on 21.04.2022. Subsequently, they were detained under Act-14 and the detention order has also been quashed. He would further submit that the investigation has been completed and the case has been taken up for trial in S.C.No.369 of 2022 on the file of the learned I Additional District and Sessions Judge, Tirunelveli. He would further submit that the petitioners are ready and willing to abide by any stringent conditions that may be imposed by this Court. Hence, he would seek for bail.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that there was a dispute between the members belonging to two different communities, the petitioners hail from Manoor Limits in Tirunelveli District and due to this incident, tension prevails in the area and the police picketing still continues there. He would further submit that if bail is granted to the petitioners, there is a possibility of retaliation murder. He would further submit that as far as first petitioner is concerned, there are ten previous cases pending against him; the second petitioner is concerned, there are three previous cases; the third petitioner is concerned, there are three previous cases; the fourth petitioner is concerned, there are two previous cases; and the fifth petitioner is concerned, no previous case is pending against him and thereby, he would oppose for grant of bail.



5. In reply, the learned counsel for the petitioner submitted that the first petitioner has been acquitted in four cases and the second petitioner has been acquitted in all the cases and there is no other case pending against them. He would further submit that the petitioners are ready to stay faraway from the jurisdictional limits of the respondent police and they are in judicial custody from 21.04.2022 onwards.

6. Heard. Perused the materials available on record.

7. Taking into consideration of the facts and submissions made by the learned counsels and that the fact that the petitioner is in judicial custody from 21.04.2022, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned I-Additional District and Sessions Judge, Tirunelveli, and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Sessions Judge may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioners shall stay at Marthandam and excepting the days when S.C.No.369 of 2022 is listed for hearing before the I Additional District and Sessions Judge, Tirunelveli, they shall report before the Inspector of Police, Marthandam Police Station, Kanyakumari District, everyday at 10.30 a.m., until further orders; and it is made clear that the petitioners shall not enter into the jurisdiction limits of the respondent police until further orders;

(d) the petitioners shall not commit any offences of similar nature;

(e) the petitioners shall not abscond either during investigation or trial;

(f) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Sessions Judge/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 Sessions Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala** [(2005)AIR SCW 5560];



(h) if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-
16/12/2022

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16/12/2022

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

TO

1. THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUNELVELI.
2. THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
3. THE INSPECTOR OF POLICE,
MANUR POLICE STATION,
TIRUNELVELI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO :

THE INSPECTOR OF POLICE,
MARTHANDAM POLICE STATION,
KANYAKUMARI DISTRICT.

ORDER
IN
CRL OP(MD) No.22238 of 2022
Date :16/12/2022

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USK/SSS/SAR- /16.12.2022/4P/6C