



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2023

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.O.P.(MD) No.388 of 2023

Kali ... Petitioner / Accused No.2
Vs.

The State, represented by
The Inspector of Police,
Puliyarai Police Station,
Tenkasi District.
Crime No.123 of 2015

... Respondent / Complainant

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

PRAYER: This Criminal Original Petition is filed under Sections 439 of Criminal Procedure Code, to enlarge the petitioner on bail in S.C.No.142 of 2018 on the file of the learned Additional District and Sessions Judge (FTC), Tenkasi.

For Petitioner : Mr. Anand.R, Advocate

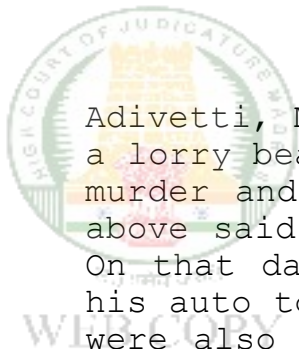
For Respondent : Mr.B.Nambiselvan,
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed to enlarge the petitioner on bail in S.C.No.142 of 2018 on the file of the learned Additional District and Sessions Judge (FTC), Tenkasi.

2. The facts in brief:

The petitioner herein facing charges under Section 302 r/w. 120(B) IPC. The present petitioner namely Kali was enjoying fishery right for about 30 years in Anandhakulam pond. The co-accused are his relatives. In 2015, one Hariharan took lease of fishery right in auction. Because of the above said, enmity arose between Hariharan group and present petitioner's group, frequent encounters also took place between these two groups. Over which, several cases have been registered. In one of the case, the above said Hariharan and other accused were granted anticipatory bail and appeared before the Puliyarai Police Station. The deceased Karuppasamy used to go to the Police Station through auto bearing registration number TN 76 F 3918 and this petitioner along with other co-accused conspired to kill



Adivetti, Mahesh and the auto driver Karuppasamy, they also had a lorry bearing registration number TN 45 AW 8987 for committing the murder and show it as an accident, if the deceased escape from the above said attempt, then co-accused must cause assault with aruval. On that date, the deceased Karuppasamy took Adivetti and Mahesh in his auto towards Police Station, in the midway, some of other person were also taken. The above said travel of the auto informed by the accused 1, 3 and 4. The accused 1, 3 and 4 sitting in the lorry drove the same and hit the auto and in the above said occurrence, several innocent persons died. Totally six persons died in the above said occurrence. Over the above said occurrence, originally a case was registered under Section 304 (A) IPC and later during the course of investigation it was altered to under Section 302 r/w. 120(B) IPC and all the accused were arrested, remanded in custody and some were granted bail, some of them are in jail.

3. Pending the above said investigation, again co-accused conspired and killed the witness Hariharan. The second murder took place within two years from the date of the first occurrence. Both the cases are pending for trial. Another case was registered in Crime No.151 of 2022 under section 147, 342, 294(b), 307 and 506(ii) IPC against this petitioner and others stating that they caused threat to the witness in the above said murder case. On that ground, the bail that was granted to this petitioner was also cancelled, against which, the revision has been preferred before this Court and the same was also dismissed. Now the petitioner has been taken into custody and again he moved the bail application before the trial Court on the ground that the co-accused have been granted bail, parity must also extended to him in the trial Court by order dated 22.12.2022, dismissed the petition stating that several cases have been registered against this petitioner before the several Police Station. Subsequent to the above said dismissal order, another development took place, in which, one of the co-accused namely Marithurai was granted bail by the very same Court in Cr.M.P. No.729 of 2022. Clarification was sought from the learned Public Prosecutor as to the stage of the case and as well as the status of other co-accused.

4. The learned Public Prosecutor would submit that against the first accused warrant is pending. 3rd accused namely Udhayakumar died, 9th accused is on bail. For 11th accused bail was granted but he is in custody for some other case. From the status of the bail, it is seen that, except the first accused against whom warrant is pending, all other persons have been granted bail.

5. No doubt that bruttel murder of six person have been committed and most of the persons were innocents, no way connected with the motive. Similarly, another murder also took place who is witness in the present case.



6. The learned Additional Public Prosecutor would submit that if the petitioner is released on bail, there is every likelihood of hampering the trial process and tampering the witness, even the life of this petitioner also may not be safe.

WEB COPY

7. The only point to be decided is whether this petitioner alone be singled out from extending the benefit of bail. I pointed out the reason for the two occurrences to learned counsel for the petitioner, stating that this petitioner is main reason for the above said trouble. But even though, the learned counsel for the petitioner is not able to give convincing answer for this point, he insisted upon the treatment of parity.

8. On the above said sole ground and I am of the considered view that bail may be granted to the petitioner with following stringent condition.

9. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail, on executing a personal 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, Sengottai, Tenkasi District, and on further condition that he must stay at Trichy and report before the Fort Police Station daily at 10.30 a.m., till further orders. He must not visit the occurrence village without permisison of the Court. He must also attend the trial Court regularly on every hearing and he should not make any attempt to tamper the witnesses. If any condition is violated by the petitioner, even without reference to the Court, the respondent is at liberty to take him to custody.

sd/-
20/02/2023

/ TRUE COPY /

21/02/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

INDU
TO

1 THE JUDICIAL MAGISTRATE,
SENGOTTAI, TENKASI DISTRICT.

2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE
PULIYARAI POLICE STATION,
TENKASI DISTRICT.

<https://www.mhc.trichy.mil.ni>



4 THE SUPERINTEINDENT
CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

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

COPY TO

THE INSPECTOR OF POLICE
FORT POLICE STATION,
TRICHY DISTRICT.

+1 CC to M/s.R.ANAND, Advocate (SR-2522[I] dated 20/02/2023)

ORDER

IN

CRL OP(MD) No.388 of 2023

Date :20/02/2023

PKP/BUC/SAR- /21.02.2023/4P/8C