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CRL OP(MD).



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 07/02/2023

PRESENT

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

CRL OP(MD) . No.2254 of 2023

Nawbal @ Nowpal Mohideen

... Petitioner/Sole Accused

Vs

State Rep.by  
The Inspector of Police,  
Arumuganeri P.S,  
Thoothukudi District.  
(Crime No.232 of 2022)

... Respondent/Complainant

For Petitioner : M/s.Jinnah.S.M.A.,  
Advocate.

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

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

PRAYER :-

For Bail in Crime No. 232 of 2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested and remanded to judicial custody on 23.01.2023 for the offence punishable under Sections 294(b),323,506(i) of IPC @ 294(b),323,448,427,506(i) and 304(ii)of IPC in Crime No.232 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 19.09.2022 the petitioner trespassed into the house of the defacto complainant/deceased and abused him with filthy language and attacked him with hands and pushed on his chest stating that the assault would cause death of the defacto complainant and subsequently the defacto complainant succumbed to injuries sustained by him and further the accused damaged the house materials, hence the case.



3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he would further submit that there was a fight between the petitioner and the victim/ deceased He would further submit that the petitioner is the aggressor and he has assaulted him and the petitioner during the scuffle had also pushed him resulting in him sustaining injuries. He would further submit that there is no intention on the part of the petitioner to commit the murder of the victim and the fact remains that the incident had happened at 10.30 a.m., and the victim got himself admitted in the hospital for chest pain at 3.30 pm., Thereafter he was admitted in the hospital and angiogram was done later after five days of the incident he died. He would further submit that even taking into consideration the facts in respect of the incident no case of offence under Section 304(ii) of IPC can be made out as against the petitioner. He would further submit that the petitioner is an BBA graduate and he is in jail from 23.01.2023, hence he seeks bail.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner and the defacto complainant are neighbours and there was a quarrel between them and when the defacto complainant questioned the same, the petitioner had assaulted him on his chest resulting in him sustaining internal injuries and due to which later he was admitted in the hospital and given treatment. Later after five days without responding to treatment he died, hence he objected to grant bail to the petitioner.

5.Heard. Perused the materials available on record including the First Information Report.

6.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the period of incarceration 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) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Tiruchendur and on further conditions that:

[b] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.

[c] the petitioner shall stay at Madurai and report before the Tallakulam Police Station daily at 10.30 a.m., until further orders

[d] the petitioner shall not commit any offences of similar nature.



[e] the petitioner shall not abscond either during investigation or trial.

[f] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[g] On breach of any of the aforesaid conditions, the learned Judicial 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].

[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

07/02/2023

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07/02/2023

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

AAV

TO

1 THE JUDICIAL MAGISTRATE, TIRUCHENDUR.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, THOOTHUKUDI DISTRICT.

3 THE OFFICER INCHARGE, SUB JAIL, PERURANI.

4 THE INSPECTOR OF POLICE, ARUMUGANERI POLICE STATION,  
THOOTHUKUDI DISTRICT.

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

COPY TO

THE INSPECTOR OF POLICE,  
TALLAKULAM POLICE STATION, MADURAI DISTRICT.

+1 CC to M/s.S.M.A.JINNAH, Advocate ( SR-1914[I] dated 07/02/2023 )  
ORDER  
IN  
CRL OP(MD) No.2254 of 2023  
Date :07/02/2023

RS/VR/SAR.(07.02.2023) 3P-8C

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