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CRL OP(MD).



23

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

Date : 27/02/2023

PRESENT

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

CRL OP(MD) . No.3442 of 2023

Ebanezer

... Petitioner/Sole Accused

Vs

the state The State rep.by,
The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
Crime No.486 of 2022.

... Respondent/Complainant

For Petitioner : M/s.M.Subash Babu, Senior Counsel
for Susi Kumar C, Advocate.

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

For Intervenor : M/s.P.T.Ramesh Raja, Advocate

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

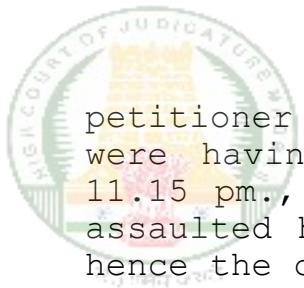
PRAYER :-

For Bail in Cr.No.486 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 19.12.2022 for the offences under section 302 of IPC in Crime No.486 of 2022 on the file of the respondent police seeks bail.

2. The case of the prosecution is that the accused was given in marriage to the daughter of the defacto complainant 14 years ago and they have two children. The daughter of the defacto complainant joined a beautician course against the wishes of her husband/the



petitioner herein and changed her way of life because of they were having frequent quarrel and whileso, on 15.12.2022 around 11.15 pm., while they were returning from function the accused had assaulted his wife with aruval resulting in her dying on the spot, hence the case.

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3. The learned senior counsel appearing for the petitioner would submit that the petitioner is innocent and a false complaint has been given against him. He would further submit that the victim is his wife and after 14 years of marriage she had changed her way of life and there was a quarrel between them and the petitioner had questioned the character of the defacto complainant and his family members, whileso, some one else had murdered the deceased and now the entire blame is shifted on the petitioner. He would further submit that manner and the way in which he complaint has been given by the defacto complainant would show that the defacto complainant could not have witnessed the occurrence. He would further submit that the investigation has been completed and final report has been filed before the concerned court. He would further submit that the petitioner is in custody from 19.12.2022, hence he seeks bail.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that it is case where the petitioner had murdered his own wife. He had preplanned to murder his wife and taken aruval along with him in the two wheeler and taken her to the secluded place, where he had inflicted injuries on her head and face resulting in her instantaneous death. However he would submit that the investigation has been completed and final report has been filed before the concerned court.

5. The learned counsel for the intervenor/defacto complainant would submit that it is a case where the accused with an intention to commit murder had pre-planned and taken aruval in motor cycle while returning from the function the incident had taken place and he would further submit that the petitioner had inflicted injuries on the head of the deceased resulting in instantaneous death. He would further submit that the children are with the defacto complainant and there is threat to the children also, hence he objected to grant bail to the petitioner.

6. In reply the learned senior counsel appearing for the petitioner would submit that even as per the prosecution the petitioner is alleged to have grudge only against the wife and the petitioner will not take any illegal steps in taking custody of the children and he will pursue his remedy through appropriate civil court, hence he seeks bail.

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

<https://www.mhc.tn.gov.in/judis> Taking into consideration of the facts and submissions made



by the learned counsels and also taking into consideration the period of incarceration and also the fact that the investigation has been completed and final report has been filed this court is inclined to grant bail to the petitioner, subject to the following conditions:

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[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 No.I, Padmanabhapuram 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 report before the learned Judicial Magistrate No.I, Padmanabhapuram on all working days at 10.30 A.M., for a period of two weeks and thereafter on the dates fixed by the learned trial Judge. It is made clear that the petitioner shall not enter the jurisdiction limit of the respondent police.

[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/-

27/02/2023

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/02/2023

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



TO

1 THE JUDICIAL MAGISTRATE NO.I,
PADMANABHAPURAM.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANNIYAKUMARI DISTRICT AT NAGERCOIL.

3 THE OFFICER INCHARGE,
DISTRICT JAIL, NAGERCOIL.

4 THE INSPECTOR OF POLICE
THUCKALAY POLICE STATION,
KANYAKUMARI DISTRICT.

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

+1. CC to M/S.SUSI KUMAR C Advocate SR.No.2952(I)

ORDER

IN

CRL OP(MD) No.3442 of 2023

Date :27/02/2023

VA/VS/SAR-3/28.02.2023/4P/7C