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CRL OP(MD).



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 24/02/2023

PRESENT

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

CRL OP(MD). No.3594 of 2023

Nallasivan

... Petitioner/Accused Rank Not Known

Vs

State Rep.by
The Inspector of Police,
Courtallam Police Station,
Tenkasi District.
Crime No.24 of 2023..

... Respondent/Complainant

For Petitioner : M/s.Saravanakumar.C,Advocate

For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor

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

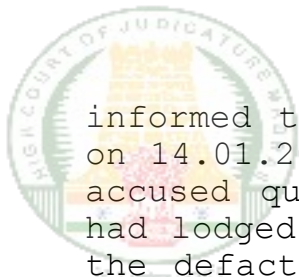
PRAYER :-

For Bail in Crime No.24 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, who was arrested and remanded to judicial custody on 01.02.2023, for the offence punishable under Sections 147, 294(b), 324, 427, 366, 506(ii), 212, 120(B) of I.P.C r/w 34 of I.P.C, in Crime No. 24 of 2023, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant viz., Vineeth is that he is working as a Software Engineer and there was a love affair between him and one Kuruthika Patel, who is the daughter of A1. Since he belongs to a different community, her family was against their love and thereby, he and the said Kuruthika Patel eloped and got married on 27.12.2022 at Nagercoil. Meanwhile, the first accused lodged a complaint regarding marriage of his daughter and thereby, the defacto complainant and his wife came to the Police station for enquiry. During enquiry, Kuruthika Patel had



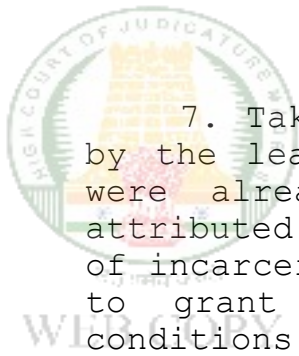
informed that she is living with the defacto complainant. 3, on 14.01.2023, when they went to the hospital, the first and second accused quarrelled with them. Therefore, the defacto complainant had lodged a complaint and an enquiry was conducted. On 25.01.2023, the defacto complainant, his wife, his father and his brother have come to the Police Station and attended the enquiry and returned to their home in his car bearing Registration No.TN 76 AE 2328. When the car was nearing to Elanji Alan Chips Shop at about 02.30 p.m., the accused persons came in a car bearing Registration No.TN 76 AC 6363, dashed the defacto complainant's car and caused damages to the left side windshield of the car, by an iron rod. Apprehending life threat, the defacto complainant and others went into the Ragavendra Timber Shop's office, where the accused persons followed them, abused and assaulted the defacto complainant's party and also kidnapped his wife/victim in their Car and fled away. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case, since the petitioner is car driver of A3, A4. He would submit that as directed by his masters, he has driven the vehicle, other than that, he has nothing to do with the alleged offence. In this case, major part of the investigation has been completed. He has a permanent residence. The co-accused have already been released on bail, as per order of this Court in CrI.O.P(MD)Nos.2887 and 2898 of 2023, dated 20.02.2023. The petitioner is in judicial custody from 01.02.2023, for the past 23 days. Hence, prays to release the petitioner on bail.

4.The learned Additional Public Prosecutor would submit that it is a case of grave nature, where two adults who have got married from different communities were separated on account of communal honor. The parents of the victim have kidnapped the victim in a broad day light, with the help of the hirelings by assaulting her husband/defacto complainant and his family members. The petitioner is arrayed as A13. He is the driver of A3, A4 and he had taken the victim girl in a car and dropped her at Kerala. There are call details between the petitioner and A3, A4. He had also gone to the house of A1 and handed over the money. Hence, he strongly opposed to grant bail to the petitioner.

5.In reply, the learned counsel appearing for the petitioner would submit that the petitioner is employed as a driver under A3, A4 and as directed by his employer, he drove the vehicle and he is nothing to do with the alleged crime. The victim has been secured and she has not made any allegation of kidnap.

6. Heard the learned counsels and perused the materials placed before this Court.



7. Taking into consideration of the facts and submissions by the learned counsels, considering the fact that the co-accused were already enlarged on bail and considering the overt act attributed as against the petitioner and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioners 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, Senkottai**, and on further conditions that:

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

(c) the petitioner shall report before the respondent Police daily at 10.30 a.m., and 05.30 p.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 abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-
24/02/2023

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24/02/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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1 THE JUDICIAL MAGISTRATE
SENKOTTAI

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

3 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

4 THE INSPECTOR OF POLICE
COURTALLAM POLICE STATION,
TENKASI DISTRICT.

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

+1 CC to M/s.C.SARAVANAKUMAR, Advocate (SR-2874[I] dated 24/02/2023)

ORDER

IN

CRL OP(MD) No.3594 of 2023

Date :24/02/2023

PKP/SBN/SAR-/24.02.2023/4P/7C