



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 11/04/2023
PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD) . No.6654 of 2023

Sahaya Micheal Fatima

... Petitioner/Accused 1

Vs

The State rep.by
The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District.
(Crime No.57/2023).

... Respondent/Complainant

For Petitioner : M/s.RAAMAKRISHNAN Ka,
Advocate.
For Respondent : Mr.R.M.ANBUNITHI,
Additional Public Prosecutor

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

PRAYER :- For Bail in Crime No.57/2023 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 10.03.2023 for the offences under sections 174 of Cr.P.C @ 294(b), 304(2), 323, 365 and 506(i) of IPC in Crime No.57 of 2023 on the file of the respondent police seeks bail.

2. The case of the prosecution is that the deceased who is a job racketor had cheated the accused and some other persons hence they had money dispute and later on 05.03.2023 the defacto complainant received a call from unknown persons stating that his uncle was admitted in a hospital at Nagercoil and after when he went to saw his uncle he found him dead. The further allegation is that the accused and others have kidnapped the deceased and caused his death.

3. Heard both sides and perused the materials available on record including the First Information Report.

4. There are totally five accused in this case and the petitioner herein is arrayed as A1. The learned counsel for the



petitioner would submit that the deceased is job rack. He received huge amount from 10- 15 victims to get job abroad, however he failed to get job and refused to return the money. Therefore he was taken to his native place by the victims and they demanded money and there he got ill and as such he was taken to hospital, unfortunately he died. Therefore the petitioner has nothing to do with the alleged occurrence. Further originally the First Information Report was registered under section 174 of Cr.P.C and subsequently altered to offences under sections 294(b), 304(2), 323, 365 and 506(i) of IPC.

5. The learned Additional Public Prosecutor produced the Post Mortem Report and also the confession statement of the first accused. It reveals that the petitioner along with four others have kidnapped the deceased on 02.03.2023 and he was kept in their house and the accused persons have brutally attacked him in order to get back their money. They have attacked the deceased all over the body by hands and legs. They also used sticks to attack the deceased. Therefore on 05.03.2023 he got fainted and immediately he was taken to hospital and admitted in the hospital. Within 15 minutes he was declared dead. Further the following injuries were noted on the body of the deceased which reads as follows:

1. $\frac{1}{2}$ x $\frac{1}{4}$ cm abrasion seen just above the right eyebrow

2. 6 x 2 cm contusion seen in front of inner aspect of right forearm

3. 3 x 2 cm contusion seen over the outer aspect of lower half of right limb.

4. 13 x 5 cm contusion seen in front of middle of left leg.

5. 6 x 4 cm contusion seen over the outer aspect of middle of left leg.

6. 5 x 4 cm contusion seen over the outer aspect of middle of left thigh.

7. 12 x 6 cm contusion seen over the inner aspect of upper $\frac{2}{3}$ rd of left forearm.

8. 12 x 5 cm contusion seen over the back of upper half of left forearm.

9. 7 x 6 cm contusion seen over the back of left hand.

10. 3 x 2 cm contusion seen over the outer aspect of middle of left arm



11. 13 x 5 cm contusion seen over the inner aspect of left forearm

12. 14 x 6 cm contusion seen over the outer aspect of left side of abdomen.

WEB COPY

Above said injuries are reddish in colour.

O/D SCALP, SKULL AND DURA: Sub scalpal bruising noted over the right frontal and left side of occipital region. O/D. Chest: Contusion noted over the 8th rib on right side over its front.

Other findings noted:

Heart : Flabby. Preserved for HPE

Lungs: Anthracosis pigment noted. C/S.

Congested and oedematous

Hyoid Bone : Intact

Stomach : About 200 ml of chyme like fluid with nil specific smell.

Mucosa- Normal.

6. Therefore it is seen that the deceased sustained injuries and died. Though waiting for chemical analysis and histopathologist report he died due to the injuries sustained by him. Further it is seen that the accused persons have kidnapped him and there he was beaten without food for three days. It is also seen from the post mortem report that in the stomach about 200 ml chyme like fluid with nil specific smell. Thereafter too the respondent police did not take any steps to alter the offence under section 302 of IPC, whereas the respondent had registered the case for the offence under section 304(ii) of IPC, hence this Court is not inclined to grant bail to the petitioner.

7. In the result, the petition stands dismissed. However the respondent police is directed to alter the offences as per the above observations..

sd/-

11/04/2023

/ TRUE COPY /

/04/2023

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

AAV

TO

1 THE OFFICER INCHARGE,
DISTRICT PRISON, NAGERCOIL.



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

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

+1. CC to M/S.RAAMAKRISHNAN KA Advocate SR.No.5823

ORDER

IN

CRL OP(MD) No.6654 of 2023
Date :11/04/2023

SA/BUC/SAR.3/19.04.2023/4P/5C