



Crl.OP(MD)No.15830 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 19/09/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)No.15830 of 2023

Chinnadurai

... Petitioner/ A1

Vs.

State rep. by
The Inspector of Police,
SIPCOT Police Station,
Thoothukudi District.
(Crime No.200 of 2023)

... Respondent/ Complainant

For Petitioner : Mr.R.Anand, Advocate
For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

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

PRAYER :- For Bail in Crime No.200 of 2023 on the file of the Respondent Police.

ORDER: The Court made the following order:-

The petitioner/ A1, who was arrested and remanded to judicial custody, on 08/08/2023 for the offences punishable under sections 147 and 302 IPC, in Crime No.200 of 2023 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the deceased was working as Driver in Buvareshwari Lorry Shed. On 02/08/2023, the deceased Rajesh Kannan as Lorry Driver, in TN-69-BE-6099 transporting the iron rods from Pondicherry to Kerala. On



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07/08/2023 at about 09.00 am, he was informed that when unloading the iron rods, weighing 3-1/2 tone was found deficient. So the petitioner, who is the owner of the Lorry enquired, abused and scolded him stating that he is responsible for the theft of iron rods. The petitioner alleged to have informed the other drivers namely Thangam, Periyasamy, Ajith Kumar and Pooesakkimuthu. The above said drivers caused assault to the deceased on the way back to the Tuticorin. On 08/08/2023, the de-facto complainant was informed that the body of his son is lying near the Agni Engineering Works Company. At that time, he found various injuries on various parts of the body. Stating that this petitioner and others are responsible for the murder, he lodged a complaint, over which, a case in Crime No.200 of 2023 was registered for the offences stated above. The petitioner was arrested and remanded to judicial custody.

3. Seeking bail, this petition came to be filed by the petitioner, who is arrayed as A1.

4. Heard both sides.

5. The learned counsel appearing for the petitioner would submit that even as per the allegation made in the FIR; absolutely no overtact has been attributed over the theft of the load, all the co-drivers were also suspected; They picked up quarrel among themselves, assaulted, for which this petitioner is noway responsible.



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6. Per contra, the learned Additional Public Prosecutor appearing for the respondent would submit that only at the instigation of this petitioner, the above said assault took place. The deceased suffered severe injuries and his body was thrown in a vacant place by the co-accused. He would also rely upon the call details of this petitioner with the deceased. Stating that during the relevant point of time, frequent calls were made between the deceased and this petitioner. According to the learned Additional Public Prosecutor, only at the instance of this petitioner, the above said assault was made.

7. Reading of the FIR shows that even at that time of travelling, the deceased was beaten up by the co-drivers, that was intimated by the deceased to his sister, which was also corroborated with the call details.

8. The learned counsel appearing for the petitioner would submit that this petitioner is running a reputed company in Tuticorin and only because of the above said, quarrel between the co-workers, the above said offence said to have been committed by the co-workers.

9. No doubt that because of the theft of the load, there was issue between the co-workers, but naturally this petitioner ought to have made enquiry with regard to the theft. That cannot be ruled out completely.



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10.Now the question, which arises for consideration is whether this will amount to abetment of commission of murder.

11.For that, the learned counsel appearing for the petitioner would submit that the petitioner is an Income Tax Assessee and there is no question of absconding and he will render all assistance for completing the process of investigation.

12.As mentioned above, the prosecution heavily relies upon the CDR details. For ascertaining the CDR details only, the matter was posted for clarification with the learned counsel appearing for the petitioner.

13.On going through the CDR report, the learned counsel appearing for the petitioner would submit that after starting from Kerala, the mobile phone of the deceased after some-time became dead. Even though, the prosecution has produced the CDR details to show his location, on 08/08/2023 at 05:49:28 till 06:45:12, he would submit that the tower location shows that as if he is present in Ganapathi Perumal, Pudur Pandiyapuram Village, Ottapidaram Taluk, Tuticoron district.

14.For connecting link, first we will go to the call details of the deceased. It started from 02/08/2023 to 08/08/2023 in Indus sharing, Kolemedu Village, Thirumulaivoyal, Redhill. On 02/08/2023 at 19:16:32, a starting point, it ends with early morning at 02:31:37 on 08/08/2023. It shows Sivarajapuram to opposite Power Grid Ind Ltd, Vellangulam Post, Tirunelveli. On 07/08/2023 at 17:57:41, the deceased



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called A1. At that time, A1, who is the petitioner herein tower location is APC College, Opp., Tuticorin. On 08/08/2023 in the early morning at 04:25:57 the co-accused namely Ajith called the petitioner stating that they reached the shed. Then the petitioner started from his place to that place and reached his shed at 08/08/2023 at about 05.49 am.

15.According to the prosecution, in the shed only the deceased was assaulted. The assault was made by this petitioner also viz., the confession statement of the co-accused.

16.Perusal of the above said CDR file shows that till 02:31:49 on 08/08/2023, the deceased was alive. So the contention on the part of the petitioner that only in the midway, the co-accused assaulted the deceased under fear and implication, is not correct as things stand today. The body was found near Agni Engineering Works Company. So the sequence of event shows that the defence now that has been taken by the petitioner is not probable.

17.Even though, the petitioner is an Income Tax assessee and running several Companies, considering the fact that now the investigation is in the preliminary stage, if the petitioner is released on bail, there is every likelihood of tampering the evidence. This is a premature stage.



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18. For all the reasons stated above, this court is not inclined to enlarge the petition on bail. Accordingly, this criminal original petition stands dismissed.

sd/-
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/10/2023

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

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To

- 1 THE INSPECTOR OF POLICE, SIPCOT POLICE STATION,
THOOTHUKUDI DISTRICT,
- 2 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL OP(MD) No.15830 of 2023
Date :19/09/2023

RS/VRS/SAR-(11.10.2023) 6P 4C
Madurai Bench of Madras High Court is issuing
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