



CRL OP(MD). No.17984 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 12/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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1. Muthuramalingam

2. Muthukumar

... Petitioners/ Accused Nos.5&6

Vs

The State rep.by,
The Inspector of Police,
Srivaikundam Police Station,
Crime No.67/2019..

... Respondent/ Complainant

For Petitioners : M/s.Senthil Sankaranatha Kumar,
Advocate.

For Respondent : Mr.R.Ms.Sethuraman,
Additional Public Prosecutor

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

PRAYER :-

To enlarge the petitioner/accused Nos.5 and 6 on bail in SC No.145/2022 on the file of the 1st Additional District Court, Thoothukudi in Crime No.67/2019 on the file of the Srivaikundam Police Station, Thoothukudi District.



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ORDER : The Court made the following order :-

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The petitioners /A5 and A6, who were arrested and remanded to judicial custody on 27.06.2022 for the alleged offences punishable under Sections 109, 120(b), 147, 148, 149, 294(b), 341, 307 and 302 IPC in Crime No.67 of 2019 on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 29.03.2019, at about 4.50 pm, the defacto complainant one Kannan and other Ramesh were went to Srivaikundam Court and return to the way of Vellalur Village and at that time, the accused persons came with car and TATA Ace and attacked the said Kannan with Aruval, in which, Kannan died on the spot. Hence the case.

3.The learned counsel appearing for the petitioners would submit that in pursuance of the complaint given by the defacto complainant, the above said case has been registered in Crime No.67 of 2019 for the offences under Sections 109, 120(b), 147, 148, 149, 294(b), 341, 307 and 302 IPC for the murder of one Kannan. He further submitted that in the FIR it is specifically stated that one Kalidas and five others are involved in this Crime and only on conducting identification parade, the persons



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who were involved in the occurrence will be identified. But, the police have not conducted any identification Parade and the complainant one of the another injured Karthikeyn not identified this petitioner. He would further submit that the petitioner is in jail from 27.06.2022, hence he seeks bail.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that it is a revenge murder. Now, in this case investigation has been completed and final report has been filed before the learned Additional District and Sessions Judge, Thoothukudi and the same was taken on file in S.C. No.145 of 2022 and the case stands posted for framing of charges.

5. On perusal of the materials it is noticed that the deceased Kannan was murdered on 29.03.2019. When he returned from Srivaikudam Court one Kalidas and five others intercepted them and murdered Kannan. In this incident one Karthikeyan also suffered injuries. Admittedly, name of the petitioners not found in the FIR. In the FIR it is only stated name of Kalidas. It is also stated five others will be identified on seeing person. Further, it is submitted that so far not conducted identification parade with the suspected accused to be identified by the alleged eye witness Karthikeyan. Now, the case is posted only for framing charges.



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6. Considering the period of detention of petitioners i.e. from 27.06.2022 and that the petitioners were arrested only based on the confession of A1 and also taking into consideration the period of incarceration and also taking into consideration of the principle stated by the Honourable Supreme Court in Sanjay Chandra and others vs. CBI reported in (2012)1 SCC 40 and the nature of the offence alleged by the petitioner, this Court is inclined to grant bail to the petitioners.

7. Accordingly, the petitioners are ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned I Additional District Court, Thoothukudi and on further conditions that:

(ii) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(iii) the petitioners shall appear before the trial Court on receiving summons as directed by the trial Court.



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(iv) the petitioners shall not tamper with evidence or witness;

(v) the petitioners shall not abscond during trial.

vi) On breach of any of the aforesaid conditions, the learned 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 petitioners 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].

vii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
12/10/2023

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12/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

trp



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TO
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1. THE I ADDITIONAL DISTRICT JUDGE, THOOTHUKUDI
2. THE OFFICER IN CHARGE,
CENTRAL PRISON, PALAYAMKOTTAI.
3. THE INSPECTOR OF POLICE,
SRIVAIKUNDAM POLICE STATION,
THOOTHUKUDI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, THOOTHUKUDI .

ORDER
IN
CRL OP(MD) No.17984 of 2023
Date :12/10/2023

RK (12/10/2023) 6P / 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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