



CRL OP(MD)No.18044 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 31.10.2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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Chandrasekar

... Petitioner/ Accused No.1

Vs

The State represented by
The Inspector of Police,
Thazhamuthunagar Police Station,
Thoothukudi District.
In Crime No.325 of 2023

... Respondent/Complainant

For Petitioner : Mr.D.S.Haroon Rasheed, Advocate

For Respondent : Mr.RMS.Sethuraman,
Additional Public Prosecutor.

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

PRAYER :-

For Bail in Crime No.325 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who was arrested and remanded to judicial custody on 16.08.2023



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for the alleged offence punishable under Sections 294(b), 307, 506(ii) IPC altered into 294(b), 307, 302 and 506(ii) IPC in Crime No.325 of 2023, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the defacto complainant is the father of the victim. On 15.08.2023, there was a birthday to the load auto owner, namely, Sathish. A1 is the friend of the above said Sathish and he asked to arrange liquor to him for birthday party and the same was refused for the reason that due to the Independence day, the liquor shop was leave. On the same day, the owner and the defacto complainant's son consumed liquor jointly at 09.00 pm. After seeing the same, A1 quarreled with them. Subsequently, at about 10.00 pm., the defacto complainant's son and owner were sitting infront of the defacto complainant's house. At that time, the accused persons came there and attacked them with beer bottle and caused grievous injuries. The defacto complainant's son succumbed to death at the hospital. Hence the case.

3.The learned counsel appearing for the petitioner would contend that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. He would further submit that the petitioner is in custody from 16.08.2023, hence he seeks bail.



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4.The learned Additional Public Prosecutor appearing for the respondent Police would submit that petitioner along with other accused attacked the deceased with beer bottle and caused grievous injuries and due to the same, the defacto complainant's son died. Hence, he objected to grant bail to the petitioner.

5.Heard both sides and perused the materials available on record.

6.Considering the facts and circumstances and also taking into consideration the period of incarceration and 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*, this Court is inclined to grant bail to the petitioners, subject to the following conditions:

[i] 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.II, 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;



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(iii) the petitioner shall appear before the trial Court on first working day of every English Calender month at about 10.30 am.

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

(v) the petitioner 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 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].

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

sd/-
31/10/2023

/ TRUE COPY /

31/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

GNS



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TO
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- 1 THE JUDICIAL MAGISTRATE NO.II
THOOTHUKUDI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
THOOTHUKUDI.
- 3 THE INSPECTOR OF POLICE
THAZHAMUTHUNAGAR POLICE STATION,
THOOTHUKUDI DISTRICT.
- 4 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.D.S.HAROON RASHEED, Advocate (SR-15686[I] dated 31/10/2023)

ORDER
IN

CRL OP(MD) No.18044 of 2023

Date :31/10/2023

SS/SAR- /31/10/2023/5P/7C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023