



CRL OP(MD). No.18463 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 19/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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Robert Ragu

... Petitioner/ Accused No.4

Vs

State Rep.by

The Inspector of Police,

Thoothukudi South Police Station,

Thoothukudi District.

in Crime No.478/2022.

... Respondent/ Complainant

For Petitioner : M/s.Suyambulinga Bharathi K, Advocate.

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

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

PRAYER :-

To enlarge the petitioner/accused no.4 on bail in connection with the S.C.No.43/2023 in Crime No.478/2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A4, who was arrested and remanded to judicial custody on 06.08.2022 for the alleged offences punishable under Sections 147, 148, 341, 294(b), 324, 307, 302 and 506(ii) of IPC @ 120(b), 147, 148, 341, 294(b), 324, 307, 302 and 506 (ii) of IPC in Crime No.478 of 2022, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that there was already some dispute while eating food due to which on 05.08.2022 all accused persons along with Karkuvel and



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Dinesh kumar attacked three persons out of which Samuel and Durairaj sustained injuries and Ponsenthil kumar Samuel succumbed to injuries. 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 arrayed as A4 in S.C.No.43 of 2023 in Crime No.478 of 2022 and his name does not found place in the First Information Report. He would further submit that the petitioner has been implicated as an accused based on the confession given by the co-accused. He would further submit that in the First Information Report only names of two persons have been identified and remaining persons were not identified and the police has not conducted any identification parade . He would further submit that the petitioner was not present in the scene of occurrence and the petitioner is in custody from 06.08.2022, hence he seeks bail.

4.The learned Additional Public Prosecutor appearing for the respondent Police would submit that the petitioner is not a named accused but as per the confession of A1 he has been implicated as an accused. He would further submit that the accused persons has assaulted three persons, out of which two persons sustained injuries and one person died, hence he objected to grant bail to the petitioner. However he fairly concedes that identification parade was not conducted in this case and the accused



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has not been identified.

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5. On perusal of the record the fact reveals that on 08.05.2022 the accused person Karkuvel and Dinesh Kumar attacked three persons out of which Samuel and Durairaj sustained injuries and One Ponsenthilkumar died. Further it is noticed that only the name of Karkuvel and Dineshkumar were found place in the First Information Report and the name of remaining persons were not identified. Further it is noticed that the police have not conducted any identification parade to identify the accused persons.

6. Considering the facts and circumstances of the case and also considering the nature of allegations as against the petitioner and also considering 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 petitioner, 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 I Additional District and Sessions Judge, Thoothukudi and on further conditions that:

(ii) the sureties shall affix their photographs and left thumb impression in the



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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 petitioner shall appear before the trial Court on receipt of summons

(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/-
19/10/2023

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19/10/2023

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

AAV
TO

1 THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THOOTHUKUDI DISTRICT.



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2 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE, THOOTHUKUDI SOUTH POLICE STATION,
THOOTHUKUDI DISTRICT.

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

ORDER
IN

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Date :19/10/2023

RS//SAR-(19.10.2023) 5P 5C

Madurai Bench of Madras High Court is issuing
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