



WEB COPY

Crl.OP(MD)N



22

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 20/01/2023

PRESENT

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)No.22158 of 2022

1.Chinnathai
2.Jothimani

: Petitioners/A1 and A2

Vs.

State through
The Inspector of Police,
Thiruthangal Police Station,
Virudhunagar District.
(Crime No.35 of 2022)

: Respondent/Complainant

For Petitioner : Mr.C.Ezhilarasu

For Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor

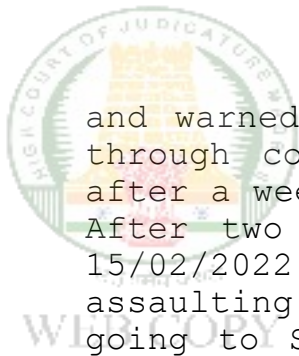
PETITION FOR BAIL under Sec.439 of Cr.P.C

PRAYER:-For Bail in Crime No.35 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order:-

The petitioners, who are arrayed as A1 and A2 were arrested, on 08/02/2022 and remanded to judicial custody for the alleged offences punishable under sections 307 IPC @ 114, 302 and 498-A IPC, in Crime No.35 of 2022, seek bail.

2.The case of the prosecution is that the de-facto complainant is the sister of the deceased Kartheeswari. She gave a statement that the deceased Kartheeswari was married to A2-Jothimani. Sometime five years prior to the occurrence, along A2, the deceased and A1, who is the mother of A2 is also living. Jothimani was already married to another lady and later, they got separated. A1 was working as Sweeper in Puthupatti. The deceased was 4 months pregnant. Right from the date of marriage, A1 caused trouble, harassed and tortured under the wrong assumption that A2 will not live in the house and were separate residence and A2 is locked the door out side, whenever she goes to the work. One week after the occurrence, the deceased telephoned the de-facto complainant stating she was assaulted by A1 in her stomach. So they went to her house



and warned. But however, A2 stated that the matter can be resolved through compromise. So, she was taken to the parental home and after a week, A2 came and took the deceased to the matrimonial home. After two days again, she was stated to be assaulted by A1. On 15/02/2022 again, she telephoned them stating that A1 and A2 are assaulting her. In the meantime, some one has informed that she is going to Sivakasi and she came there and found that the deceased admitted in the hospital with burn injuries. On enquiry, she has stated that A1 caused severe injuries. But A2 did not care, when it was informed. But he was also assaulted with her in the stomach. At about 2.40 am, he went to the upstairs and followed her and poured kerosene and lighting the match stick. A2 and neighbours gathered and she was taken to the hospital. In the hospital, her dying declaration was also recorded, wherein, she has implicated the accused persons for the injuries. Later, she died and the case was altered to 306 IPC. After completing the formalities of investigation, final report was also filed and now, the case has been committed and it was taken in PRC No.5 of 2022. Pending committal process, the petitioners have filed this petition seeking bail.

3. Heard both sides.

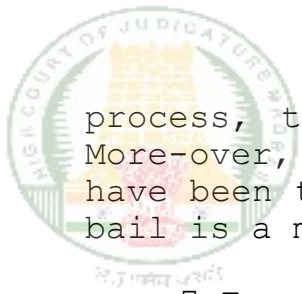
4. Para 5 and 6 of the earlier order passed by this court, dated 07/07/2022 in Crl.OP(MD)No.12001 of 2022 is extracted herein:-

"5. Perusal of the entire CD file shows that it is a gruesome occurrence and the deceased was continuously put to harassment, torture and physical assault also. She was also five months pregnant at the time of occurrence. Therefore, dying declaration is against the accused persons.

6. Even though she is in custody for more than four months, I am of the considered view that this is not a fittest case to enlarge the petitioner on bail. She can move the bail before the concerned court after material witness examination is over."

5. Now this application has been moved on the ground that PW1 to PW3 have been examined and among them, PW1 and PW2 have been cross examined by the petitioners and PW3 could not be cross examined due to want of instructions from the petitioners.

6. The learned counsel appearing for the petitioners would submit that since the petitioners are in custody, they are not in a position to get instructions for cross examining PW3. But I am unable to appreciate this sort of contention for the simple reason that they have already cross examined PW1 and PW2. They can get instructions by approaching the concerned authority through proper process for having consultation. So, without exhausting the legal



process, this petition has been filed making untenable a. More-over, the manner in which the above said occurrence said to have been taken place, disentitles the petitioners from claiming the bail is a matter of right.

7. Even though, it has been stated that it is a case of suicide, since the trial is underway, it may not be proper on the part of this court to make further observation with regard to this case. It appears that the petitioners are interested in getting bail and not shown any interest to dispose of the case on merits.

8. In the result, this criminal original petition is **dismissed**.

sd/-

20/01/2023

/ TRUE COPY /

/02/2023

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

TO

1 THE INSPECTOR OF POLICE
THIRUTHANGAL POLICE STATION, VIRUDHUNAGAR DISTRICT.

2. THE OFFICER INCHARGE,
SPECIAL PRISON FOR WOMEN, MADURAI.

3. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+1 CC to M/s.EZHILARASU.C, Advocate (SR-939[I] dated 23/01/2023)

ORDER

IN

CRL OP(MD) No.22158 of 2022

Date :20/01/2023

SS/BUC/SAR III/02/02/2023/ 3P 6C