



CRL OP(MD). No.19671 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/11/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.19671 of 2023

K.Selvaraj @ Varichur Selvam@ Selvam ... Petitioner/ Accused No.1

Vs

1. The Inspector of Police,
Villoor Police Station,
Madurai District.
(Crime No.61/2023)..

2. The Inspector of Police,
Ottapidaram Police Station,
Thoothukudi District.
(*)Crime No.233/2023.

... Respondents/ Complainants

(R2 is Impleaded as Per Order of the Court Dated
15/11/2023 in Crl.Mp(MD)15972 Of 2023 in CRL
OP(MD)No.19671 of 2023)

(*)Amended as per order of the Court dated
17.11.2023 in Crl MP(MD)No.16335 of 2023 in Crl
OP(MD)No.19671 of 2023



CRL OP(MD). No.19671 of 2023

WEB COPY For Petitioner : M/s.Shreedhar M,
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.61/2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1, who was formally arrested 18.09.2023 for the alleged offence punishable under Man Missing subsequently, altered into Sections 120(B), 364,302 and 201 of IPC in Crime Nos.61 of 2023 as well as Crime No. 233 of 2023 on the file of the respondents police, seeks bail.

2. The defacto complainant is the wife of the deceased. On 15.09.2023 the defacto complainant lodged a complaint stating that her husband used to go to Kerala for work and during that period he involved in a case in Kerala for which he was in prison for six years and thereafter, he returned home and then stayed at Villoor with her for some days. In the month of August 2018 the husband of the



CRL OP(MD). No.19671 of 2023

WEB COPY

defacto complainant went to Trichy for work. Subsequently he has not contacted her and he has not returned home till date. Hence, she gave a complaint and a case was registered as Man missing. In the meantime a news was published in newspaper on 03.07.2023 that the petitioner has murdered one person at Tuticorin by hitting him with car and thrown the dead body in Tambirabarani river, but at that time the petitioner was in prison in respect of Virdhunagar East Police Crime No.41 of 2021. On confession given by the petitioner in Crime No. 41 of 2021 it is revealed that the petitioner along with two others have committed murder of the husband of the defacto complainant and based on the said confession further investigation was done and it was revealed that the husband of the defacto complainant earlier worked as driver of the petitioner from the year 2009 and subsequently he joined with rival group and instigated them to demand money from the petitioner in respect of another criminal activity of the petitioner. Hence the petitioner had decided to murder the husband of the defacto complainant and executed the same. Accordingly on 01.09.2018 the petitioner and two others have asked the husband of the defacto complainant to come to Pandiapuram toll gate and all of them have gone in a car bearing Reg. No. TN 59 CC 0100 and when they came near Valasamudram three of them alighted from the car and except the petitioner who was driving the car. The petitioner has further driven the car, A2 has made the husband of the defacto



CRL OP(MD). No.19671 of 2023

WEB COPY

complainant to fall down and the petitioner has driven the car over the husband of the defacto complainant more than 10 times and crushed him and thereafter the accused persons have transferred the crushed body into a gunny bag and thrown the same in Thambirabarani river. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the case has been registered in pursuance to the complaint given by the defacto complainant/Sugantha for the murder of her husband. Initially a case was registered as Man missing and subsequently altered in to sections 120(B),364,302 and 201 of IPC. He would further submit that as per alteration report the respondent police came to know about the murder of the deceased Easwaran on 03.07.2023 when the petitioner came confession with regard to the case in Crime No.41 of 2021 for the offences under Sections 147,148,364, 302,404,201 of IPC r/w. 149,120(B) of IPC and Section 25(1A) and 25(1B)(b) of Arms Act. He would further submit that though the respondent came to know about the occurrence on 03.07.2023 they have not taken any action to register the First Information Report. They obtained complaint from the wife of the deceased on 15.09.2023 and the First Information Report was registered only on 15.09.2023 for Man missing and not for murder. Further the wife of the deceased did not state anything about his working place and under whom the petitioner is



CRL OP(MD). No.19671 of 2023

working as driver. But as per the confession given by the petitioner, he was working as driver for a long period under him. Further the body of the deceased was not recovered and there is no eye witnesses to the said occurrence. He would further submit that the petitioner is in jail from 18.09.2023, hence he seeks bail.

4. The learned Additional Public Prosecutor appearing for the respondent Police would submit that the petitioner has murdered the husband of the defacto complainant in a brutal manner and further the petitioner is having 18 previous cases, of which 10 cases are disposed of and the remaining cases are pending and hence, he strongly objected to grant bail to the petitioner. He would further submit that now, the said case is pending before the 2nd respondent police and the case has been registered in Crime No. 233 of 2023 for the offence under Sections 120B, 364, 302 and 201 IPC.

5. In pursuance of the complaint given by one Sugantha, case has been registered in Crime No.61 of 2023 on 15.09.2023 for "Man Missing". In the said complaint the defacto complainant has stated that her husband Bhuvaneshwaran @ Easwaran was missing and requested to take action. After registering the case, the respondent police arrested the petitioner / accused in connection with case in Crime



CRL OP(MD). No.19671 of 2023

WEB COPY

No.41 of 2021, for the offence under Sections 147, 148, 364, 302, 404,, 201 IPC r/w. Section 149, 120(B) IPC and 25(1A) and 25(B)(b) of Arms Act. In that case, it is alleged that he gave a confession that he had murdered the alleged Bhuvaneshwaran @ Eswaran. Based upon the confession, the petitioner was added in Crime No.61 of 2023 and subsequently, FIR was altered in Crime No.233 of 2023 on the file of the second respondent police, for the offences under Sections 120B, 364, 302 and 201 IPC. Further, the prosecution alleged that the deceased was working as a Driver under the petitioner. Due to the enmity, the petitioner murdered him and concealed his body and thrown it in Thamaraparani River, who substantiated the prosecution story, but, so far, no material has been collected by the prosecution to ascertain whether Bhuvaneshwaran @ Eswaran is alive or died. Further to support his story, the said Bhuvaneshwaran @ Eswaran was working as a driver under the petitioner, the police has not collected the driving licence to show by professionally he was a driver. In the first complaint given by one Senthilkumar it is stated that said deceased was a load man, but, nowhere stated he was professionally driver and working as driver in any one of the place especially under the petitioner. In that circumstances, there is no material to show that the deceased Bhuvaneshwaran @ Eswaran was driver by profession, besides, he was working as a driver under the petitioner.



CRL OP(MD). No.19671 of 2023

WEB COPY

6. Considering the nature of allegations made against the petitioner and absence of any material to support the prosecution story and also considering 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 petitioner.

7. 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, Ottapidaram and on further conditions that:

(i) the petitioner shall affix his photograph and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity.

(ii) the petitioner shall appear before the trial Court once in a month i.e., on first working day of every English Calender month at 10.30 am until further orders.



CRL OP(MD). No.19671 of 2023

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

(iv) the petitioner shall not abscond during trial.

(v) 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].

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

sd/-
22/11/2023

/ TRUE COPY /

22/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

trp



CRL OP(MD). No.19671 of 2023

TO
WEB COPY

1. THE JUDICIAL MAGISTRATE, OTTAPIDARAM.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI
3. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
4. THE INSPECTOR OF POLICE,
VILLOOR POLICE STATION,
MADURAI DISTRICT.
5. THE INSPECTOR OF POLICE,
OTTAPIDARAM POLICE STATION,
THOOTHUKUDI DISTRICT.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+2 CC to M/s.M.SHREEDHAR, Advocate (SR-16654[I] dated 22/11/2023)

ORDER
IN
CRL OP(MD) No.19671 of 2023
Date :22/11/2023

RK (22/11/2023) 9P / 9C

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