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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 30/01/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.22183 of 2022

Ajay

... Petitioner/Accused No.5

Vs

State Rep.by
The Inspector of Police,
SS Colony Police Station,
Madurai District.
Crime No.633/2014.

... Respondent/Complainant

For Petitioner : M/s. Karunanithi.M,
Advocate.

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Cr No.633/2014 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A5, who was arrested and remanded to judicial custody on 02.09.2021 for the offence punishable under Sections 147,148,342,302 of IPC @ 120(b),109,147,148,302,341,201,212 of IPC r/w. 4 and 5 of Explosive substance Act, 1908 in Crime No.633 of 2014 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the deceased Andiappan was the President of VKP Nagar Welfare association and the third accused was the Vice President of the said association and there existed previous enmity between the deceased and the third accused and that on 13.05.2014 at the instigation of the third accused the petitioner and the first accused brutally attacked the deceased with deadly weapons due to which the deceased died on the spot. Hence the case came to be registered.



3.The learned counsel appearing for the petitioner would submit that petitioner is arrayed as A5 who is facing trial in S.C. No.195 of 2018 on the file of the learned VI Additional District and Sessions Judge, Madurai. He would further submit that the petitioner did not appear before the trial court, hence Non Bailable Warrant of arrest came to be issued on 26.08.2021 and he was arrested and remanded to judicial custody on 02.09.2021 and he is still in custody. He would further submit that the similarly placed co-accused namely Veerasubbu has been granted bail by this Court in CrI.O.P(MD) No.20792 of 2022 dated 28.11.2022. He would also submit that this Court while granting bail to the co-accused had directed the learned trial Judge to complete the trial within a period of 15 days from the date of receipt of a copy of that order. He would further submit that in this case trial has been completed, 313 Cr.P.C questioning has been completed, arguments have been over and the case is repeatedly adjourned for pronouncing judgement, hence he seeks bail.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is a habitual offender and against him there are eight cases pending and out of which one case is pending under Section 302 of IPC and other cases are under section 392 r/w.397 of IPC. He would also submit that in some of the cases the petitioner has been acquitted by the trial Court. He would also submit that the petitioner is facing a trial in murder case before the District Court, Kanchipuram, hence he objected to grant bail to the petitioner.

5.At this juncture, the learned counsel for the petitioner would reiterate that the petitioner is not responsible for delay in the trial and the co-accused have been granted bail by this Court, hence he seeks bail.

6.Heard. Perused the materials available on record including the First Information Report.

7.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the period of incarceration this court is inclined to grant bail to the petitioner , subject to the following conditions:

[a] Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties (of which one shall be a blood related surety) each for a like sum to the satisfaction of the learned Judicial Magistrate No.V, Madurai and on further conditions that:

[b] the sureties shall affix their photographs 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.



[c] the petitioner shall report before the trial Court on all working days at 10.30 a.m., and shall also appear before the respondent police daily at 6.30 pm., until further orders. Further the petitioner is also directed to appear before the District Court, Kanchipuram on the hearing dates in the case pending against him after duly intimating the present trial Judge in advance.

[d] the petitioner shall not commit any offences of similar nature.

[e] the petitioner shall not abscond either during investigation or trial.

[f] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[g] On breach of any of the aforesaid conditions, the learned Judicial 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].

[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

30/01/2023

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31/01/2023

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

AAV

TO

- 1 THE DISTRICT JUDGE, KANCHIPURAM.
- 2 THE JUDICIAL MAGISTRATE NO.V, MADURAI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI.
- 4 THE INSPECTOR OF POLICE, SS COLONY POLICE STATION, MADURAI DISTRICT.
- 5 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE VI ADDITIONAL DISTRICT & SESSIONS JUDGE, MADURAI.

+1 CC to M/s.M.KARUNANITHI, Advocate (SR-1383[I] dated 30/01/2023)

ORDER IN

CRL OP(MD) No.22183 of 2022

Date :30/01/2023

RS/SSS/SAR.(31.01.2023) 3P-9C