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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 06/02/2023

PRESENT

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

CRL OP(MD). No.22533 of 2022

K.D.Mani @ Manikandan

... Petitioner/Accused No.9

Vs

State Rep.by
The Inspector of Police,
Virudhunagar East Police Station,
Virudhunagar District.
Crime No.82 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Mayilvahana Rajendran C,
Advocate.

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

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

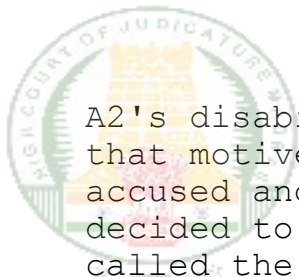
PRAYER :-

For Bail in Crime No.82 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A9, who was arrested and remanded to judicial custody on 09.08.2022 for the offences punishable under Sections 109,120(b),147,148 and 302 of IPC in Crime No.82 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the body of the deceased was found near the railway track with injuries. Based on the information a case was registered by Srivilliputhur Railway Police in Crime No.18 of 2018 under Section 174 Cr.P.C., Later based on the post mortem report and the proceedings of the Superintendent of Police, Virudhunagar District in letter No.C5/31789/95/2022 dated 05.07.2022 the case was transferred to the file of the present respondent and the case was registered in Crime No. 82 of 2022 for the offences under sections 109,120(b),147,148 and 302 of IPC. During the investigation it came to light that A1 and A2 were in same prison and while they were in prison, the deceased teased about



A2's disability. The further case of the prosecution is that that motive A1 and A2 planned to murder the deceased. After that the accused and the deceased came up from jail in the year 2019 and they decided to execute their plan. It is further alleged that A1 and A2 called the deceased to Virudhunagar junction for consuming kanja and when the deceased came there, A1 and A2 assaulted the deceased and pushed him on the railway track in front of a moving train due to which the deceased sustained injuries and died on the spot. Hence the case.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case based on the confession recorded from the other accused. He would further submit that there is no eyewitness to the occurrence. He would also submit that other than the alleged confession said to have been recorded from the other accused there is absolutely no other material as against the petitioner. He would further submit that the petitioner is in judicial custody from 09.08.2022 and investigation has been completed and final report has been filed and the case has been committed to the court of session and it is posted before the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur and the case stands posted to 16.02.2023 for appearance of the accused. In the trial Court though it has been stated that three previous cases of murder are pending against him similarly placed accused namely Selvam @ Angel Selvam (A8) against whom there are nine cases pending out of which three are murder cases has been granted bail by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur in Crl.M.P. No.3821 of 2021, hence this petitioner is also entitled for bail on parity. He would further submit that the petitioner is ready to abide by any stringent conditions that may be imposed on him and he is also ready to appear before the trial Court every day, hence he seeks bail.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that on account of previous enmity with the deceased the accused persons had taken the deceased to the secluded place near railway track offered him kanja, beaten him and thereafter pushed him in front of the running train in which the deceased succumbed to injuries. Initially the railway police registered a case under Section 174 of Cr.P.C and later based on the injuries found on the victim the case was transferred to the file of the present respondent in Crime No.82 of 2022. During the course of investigation it came to light that the petitioner along with other accused have preplanned to commit the murder of the deceased. He would further submit that the petitioner has got three previous cases reported for the offence under Section 302 of IPC, hence he opposed to grant bail to the petitioner. He would further submit that similarly placed co-accused namely A8 has been granted bail by the lower Court.



5. Heard. Perused the materials available on record the First Information Report.

6. Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the period of incarceration and that the similarly placed co-accused has been granted bail, 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 each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Virudhunagar, and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioner shall report learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur on all working days at 10.30 a.m., till framing of charges and thereafter on the date fixed by the learned trial Judge.

(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 abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-

06/02/2023

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06/02/2023

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

AAV

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TO

1 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

2 THE JUDICIAL MAGISTRATE NO.II, VIRUDHUNAGAR DISTRICT.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR.

4 THE OFFICER INCHARGE, SUB JAIL, VIRUDHUNAGAR DISTRICT.

5 THE INSPECTOR OF POLICE, VIRUDHUNAGAR EAST POLICE STATION,
VIRUDHUNAGAR DISTRICT.

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

+1 CC to M/s.C.MAYILVAHANARAJENDRAN, Advocate (SR-1859[I] dated
06/02/2023)

ORDER

IN

CRL OP(MD) No.22533 of 2022

Date :06/02/2023

RS/VR/SAR.(06.02.2023) 4P-8C