



CRL OP(MD). No.20905 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 06/12/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.20905 of 2023

Syed Ismail @ Ottaiyan

... Petitioner/ Accused No.4

Vs

The State rep. by,
The Sub-Inspector of Police,
Karimedu Police Station,
Madurai District.
Crime No.843 of 2023

... Respondent/Complainant

For Petitioner : Mr.SMA.Jinnah
Advocate.

For Respondent : Mrs.RMS.Sethuraman
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.843 of 2023 on the file of the Respondent Police.



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ORDER : The Court made the following order :-

The petitioner/ Accused, who was arrested and remanded to judicial custody on 06.09.2023 for the alleged offences punishable under Sections 392, 397, 506(2) of IPC and 25(1)(a) of Arms Act in Crime No.843 of 2023, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 05.09.2023, at about 08.30 p.m, the petitioner and the other accused waylaid the defacto complainant and forcibly taken a sum of Rs.3,600/- from the shirt pocket of the defacto complainant by showing the deadly weapons. When tried to catch them they also threatened the public. 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 this is the second bail application. First application filed by the petitioner in Crl.OP(MD)No.18852 of 2023 was dismissed on 03.11.2023. He would further submit that the petitioner is having health issue namely, Compound Isolated Tibia Fracture and he is on regular physio exercise. To that effect,



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he also produced a copy of the medical report. Further, he is in custody for more than 90 days. Hence, he is entitled to statutory bail.

4.The learned Additional Public Prosecutor appearing for the respondent Police would submit that the petitioner and the other accused waylaid the defacto complainant and robbed money from the him by showing the deadly weapons. The investigation was not yet completed. Hence, he objected to grant bail to the petitioner.

5.Considering the facts and circumstances and also considering the period of incarceration and also taking into consideration the fact that the medical report of the petitioner 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, 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 Judicial Magistrate No.V, Madurai, and on further conditions that:



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(ii) the sureties shall affix their photographs and left thumb impression in the 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 the first working day of every English Calendar month at 10.30 am., until further orders.

(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].



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

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sd/-
06/12/2023

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06/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

dss
TO

1. The Judicial Magistrate No.V, Madurai.
 2. Do through the Chief Judicial Magistrate, Madurai.
 3. The Superintendent, Central Prison, Madurai.
 4. The Sub-Inspector of Police,
Karimedu Police Station,
Madurai District.
 5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1 CC to M/s.S.M.A.JINNAH, Advocate (SR-17369[I] dated 06/12/2023)



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ORDER

IN

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Date :06/12/2023

SSA/06.12.2023/6P/7C

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