



CRL.OP(MDNo.21047 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23/11/2023

PRESENT

The Hon`ble Mr.Justice R. SAKTHIVEL

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P.Ponesakki

... Petitioner/ Accused Rank Not Known

Vs

The Inspector of Police,
Seithunganallur Police Station,
Thoothukudi District.
(In Crime No.118 of 2023).

... Respondent/Complainant

For Petitioner : Mr.R.Anand,
Advocate.

For Respondent : R.Meenakshisundaram,
Additional Public Prosecutor

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

PRAYER :- For Bail in Crime No.118/2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Rank Not Known, who was arrested and remanded to judicial



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custody on 23.08.2023 for the alleged offence under Sections 147, 148, 449, 342, 294(b), 302, 307, 120(B), 115, 109 and 506(ii) of IPC r/w. Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998 (Tamil Nadu Act No.44 of 1998) [hereinafter referred to as TNPHW Act] in Crime No.118 of 2023, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that Accused No.5 is an advocate. Deceased Mayandi is the client of Accused No.5 [hereinafter referred to as A-5]. On 03.08.2023, some altercation happened between the deceased Mayandi and A-5. The said incident is the motive for the crime. Totally, 11 accused persons involved in the crime. On hearing the news about the altercation happened between A-5 and his client Mayandi, the relatives of A-5 conspired and trespassed into the house of the deceased Mayandi with Aruval and attacked him with Aruval and other lethal weapons with an intention to murder him. In the said occurrence, the said Mayandi died and his wife (Defacto complainant) sustained severe injuries and was admitted to the Hospital. She has given a complaint statement. Based on which, the respondent police registered a case in Crime No.118 of 2023.

3. Learned Counsel appearing for the petitioner submitted that initially,



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the petitioner's name does not find place in the First Information Report and his name has been falsely roped in this case subsequently. He further submitted that the petitioner is an innocent person and he did not commit any offence as alleged by the prosecution; that the petitioner has permanent residence and he is doing Agricultural work and he has roots in the society and therefore, possibility to abscond is very less. Further, he submitted that the petitioner is in judicial custody from 23.08.2023 and he is ready to obey the conditions to be imposed by the Court. Accordingly, he prayed to allow the petition.

4. Learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner and others conspired together and committed the offence of murder by using lethal weapons; that the investigation has completed and charge sheet has also filed; that totally three previous cases are pending against the petitioner, on the file of Srivaikundam Police Station. Details as stated by the Prosecutor is as follows:

(i).Crime No.135 of 2023 for the offence under Section 309 of IPC,

(ii).Crime No.80 of 2023 for the offence under Sections 147,148, 294(b), 307,

341, 506(ii) of IPC and



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(iii). Crime No.53 of 2022 for the offence under Sections 147, 148, 294(b), 307, 324, 341, 342, 506(ii) of IPC @ 294(B), 307, 324, 341, 342 and 506(ii) of IPC.

He further submitted that, if the petitioner is released on bail, the petitioner may cause threat to the Defacto complainant and the witnesses and therefore, he strongly objected to grant bail to the petitioner.

5. This Court has carefully considered both side submissions and perused the copy of FIR.

6. Initially, the petitioner's name does not find place in the First Information Report. Thereafter, based on the confession said to have been given by the co-accused, the petitioner has been arrayed as accused. The petitioner has permanent residence. In this case, investigating has completed and charge sheet has also filed. The petitioner is in judicial custody since 23.08.2023. Considering the facts and circumstances of the case, this Court is inclined to grant bail to the petitioner, however, with conditions to be stated *infra*.



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(i) The petitioner is ordered to be released on bail, on executing a bond for a sum of Rs.20,000/- (Rupees Twenty Thousand only) with two sureties each for a like sum to the satisfaction of the Learned Judicial Magistrate No.II, Srivaigundam.

(ii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Judicial Magistrate shall obtain a copy of any one of identity proofs to ensure their identity.

(iii) The petitioner shall stay at Madurai and report and sign before the Inspector of Police, Tallakulam Police Station, Madurai, daily at 10.30 am. and 05.00 p.m., for a period of 43 days starting from 01.12.2023 to 12.01.2024.

(iv) The petitioner shall furnish his permanent address as well as his temporary address at Madurai with Mobile Phone number to the Investigating Officer.

(v). The petitioner should not enter into the residence of the Defacto complainant or her workplace. The petitioner shall not cause any threat to the Defacto complainant and witnesses.



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(vi) On breach of any of the aforementioned conditions, the Learned Judicial Magistrate No.II, Srivaigundam, is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by themselves as laid down by the Hon'ble Supreme Court in **P.K.Shaji Vs. State of Kerala [(2005)13 SCC 283]**.

7. Accordingly, this Criminal Original Petition is allowed.

sd/-
23/11/2023

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

KSA

TO

1 THE JUDICIAL MAGISTRATE NO.II
SRIVAIGUNDAM

2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE, TUTICORIN DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI, TIRUNELVELI DISTRICT.

4 THE INSPECTOR OF POLICE
SEITHUNGANALLUR POLICE STATION,
THOOTHUKUDI DISTRICT.



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

COPY TO:

THE INSPECTOR OF POLICE
TALLAKULAM POLICE STATION, MADURAI.

ORDER
IN
CRL OP(MD) No.21047 of 2023
Date :23/11/2023

SS/DD/SAR- /23/11/2023/7P/7C

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