



CRL OP(MD).No.4935 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 28/03/2024

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD).No.4935 of 2024

Kendai @ Gajendran

... Petitioner/ Accused No.5

Vs

The Inspector of Police,
Aruppukottai Town Police Station,
Virudhunagar District.
Crime No.271/2022

... Respondent/ Complainant

For Petitioner : Mr.K.Sheenivasan,
Advocate.

For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

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

PRAYER :-

To release the petitioner on bail in connection with S.C.No.236 of 2023, on the file of the learned Additional District Judge, Srivilliputhur, Virudhunagar District, in Crime No.271 of 2022 on the file of the respondent Police.



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ORDER : The Court made the following order :-

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The petitioner/accused No.5, who is facing trial for the offence punishable under Sections 147, 148, 302, 149, 114, 120(B), 404, 201 and 34 IPC in S.C.No.236 of 2023, on the file of the learned Additional District Judge, Srivilliputhur, Virudhunagar District, in Crime No.271 of 2022, seeks bail.

2. The case of the prosecution is that on 24.11.2022, the defacto complainant's brother and one Sabarimalai went to Aruppukkottai in a two wheeler and subsequently, they were found missing. On 25.11.2022, the petitioner along with the other accused persons assaulted the defacto complainant's brother and the said Sabarimalai with Aruval, due to which, they died. Hence, a case in Crime No.271 of 2022 was registered and after completion of investigation, the respondent Police filed the charge sheet before the trial Court and the same was taken on file in S.C.No.236 of 2023.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any such offence as alleged by the prosecution. He would further submit that earlier, the petitioner has moved bail application before this Court in Crl.O.P(MD).No.5617 of 2023 and the

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same was allowed on 27.03.2023 with certain conditions, however, due to illness, he was not able to comply with the condition imposed by this Court and the respondent Police filed cancellation of bail application before this Court in Crl.M.P(MD).No.2781 of 2023 and the same was allowed on 08.06.2023, pursuant to which, the petitioner was arrested and remanded to judicial custody on 24.07.2023. He would further submit that petitioner is in judicial custody for more than seven months. Hence, he prays for bail.

4. The learned Additional Public Prosecutor appearing for the respondent vehemently opposed for grant of bail by stating that this is the fifth application for bail and though the petitioner was earlier granted bail by this Court, he has not complied with the condition and hence, the bail granted to the petitioner was cancelled, in pursuance of which, he has filed petitions seeking bail and they were dismissed on the ground that the petitioner is having seven previous cases. Though previous cases pending against the petitioner are not heinous in nature, the accused persons are not co-operating with the trial. Hence, he vehemently opposed for grant of bail.

5. Heard the learned counsel on either side.



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6. Considering the facts and circumstances of the case and the period of incarceration suffered by the petitioner and the fact that the previous cases pending against the petitioner are not heinous in nature, this court is inclined to grant bail to the petitioner, subject to the following conditions:

7. Accordingly, the petitioner is ordered to be released on bail on his executing 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, Aruppukottai, Virudhunagar District, and on further conditions that:

(a) 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;

(b) the petitioner is directed to appear before the trial Court on each and every hearing date till the conclusion of trial, failing which, bail granted to the petitioner shall stand automatically cancelled.

(c) if the petitioner is not complying with the condition imposed by this Court, the respondent Police is at liberty to secure the petitioner for the purpose of completion of trial;

(d) the petitioner shall not tamper with evidence or witness either during



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investigation or trial;

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(e)the petitioner shall not abscond either during investigation or trial;

(f)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]; and;

(g)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
28/03/2024

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28/03/2024
Sub-Assistant Registrar (CS -I/ II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

ssb

TO

1.THE ADDITIONAL DISTRICT JUDGE, SRIVILLIPUTHUR,
VIRUDHUNAGAR DISTRICT,

2.THE JUDICIAL MAGISTRATE, ARUPPUKOTTAI, VIRUDHUNAGAR DISTRICT,

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT @ SRIVILLIPUTHUR.



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4. THE OFFICER IN CHARGE,
DISTRICT JAIL, VIRUDHUNAGAR.

5. THE INSPECTOR OF POLICE,
ARUPPUKOTTAI TOWN POLICE STATION, VIRUDHUNAGAR DISTRICT.

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

+1 CC to M/s.K.SHEENIVASAN, Advocate (SR-3847[I] dated 28/03/2024)

ORDER IN
CRL OP(MD) No.4935 of 2024
Date :28/03/2024

RK (28/03/2024) 6P / 8C

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