



CRL OP(MD).No.6662 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 18.06.2024

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD).No.6662 of 2024

and

CrI.M.P.(MD)Nos.5996 and 5997 of 2024

1. Shanmugamani

2. Sriram

... Petitioners/ Accused No.1 & 2

Versus

The Inspector of Police,
Karaikudi South Police Station,
Karaikudi,
Sivagangai.
(Crime No.118 of 2024)

... Respondent/Complainant

For Petitioners : Mr.Saravanan,
Senior Counsel
for Mr.P.M.Vishnuvarthanan
Advocate

For Respondent : Mr.M.Sakthi Kumar,
Government Advocate (CrI. Side)

For Intervenor : Mr.RM.Arun Swaminathan
Advocate

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



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PRAYER :-

For Bail in Crime No.118 of 2024 on the file of the respondent Police.

ORDER : The Court made the following order :-

Initially, the petitioners have filed this petition seeking anticipatory bail, apprehending arrest at the hands of the respondent Police, in connection with a case in Crime No.118 of 2024 for the offence under Section 174 Cr.P.C. altered into Section 304(ii) IPC

2. When this petition came up for consideration before this Court on 30.04.2024, it was reported that the petitioners were arrested by the respondent Police on 27.04.2024. It was also reported that the first petitioner's wife was in the advanced stage of pregnancy. Considering the same, this Court, by order dated 30.04.2024, converted the anticipatory bail petition into a bail petition and granted interim bail to the petitioners till 17.06.2024.

3. Today, this case is posted for further hearing. It is reported that on completion of the interim bail period, the petitioners themselves have surrendered before the Judicial Magistrate, Karaikudi and they are now confined at Sub Jail, Thirupathur.



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4. In this case, the case of the prosecution is that the deceased, one Arumungam, who was under the influence of alcohol, knocked at the doors of the first petitioner's cousin at late night hours. On account of that, there was a quarrel between the petitioners and the deceased, due to which, the petitioners attacked the deceased and caused injuries. Subsequently, the deceased was taken to to the Government Hospital, Karaikudi, from where, he was shifted to Government Rajaji Hospital, Madurai for surgery and thereafter, he died on 24.04.2024 at around 8.30 a.m. at Madurai.

5. The learned Senior Counsel appearing for the petitioners submits that on 21.04.2024, at around 6.30 p.m., when the deceased Arumugam travelled in his two wheeler along with a pillion rider, his two wheeler collided with another goods carrier, namely, TATA Ace, due to which, the deceased Arumugam sustained head injury and became unconscious. Subsequently, he was taken in 108 Ambulance to the Government Hospital, Karaikudi, where, he was given treatment for his external injury. Thereafter, he gained conscious, however, he had not co-operated for further treatment, since he was under the influence of alcohol. Subsequently, on the same day, once again, the deceased Arumugam and his friends consumed alcohol at



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Santhapettai Street. The deceased, who was under the influence of alcohol, caused nuisance to the residents of Santhapettai Street and knocked at the doors of adjacent houses and also knocked at the doors of the first petitioner's cousin, at around 11.30 p.m. on the same day. The first petitioner, on the information received from his cousin, who resides there individually, went along with his driver, i.e. the 2nd petitioner to rescue her. At that point of time, the said Arumugam picked up quarrel with the first petitioner, due to which, the petitioners and the deceased assaulted each other. However, in the alleged occurrence, no weapons were used by the petitioners.

6. The learned Senior Counsel submits that the first petitioner is a practising Advocate, attached to Karaikudi Bar Association. Only after getting the information about the nuisance caused by the deceased through his cousin, he went to the spot along with the 2nd petitioner, who is his driver and there is no previous enmity between the deceased and the petitioners. The petitioners have not involved in any other case so far. The learned Senior Counsel further submits that already, a case was registered on the complaint of the deceased, over the accident occurred previously, before the Karaikudi North Police Station, for the offence under Sections 279 and 337 IPC.



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7. The learned Government Advocate (Crl side) appearing for the respondent Police submits that the alleged occurrence had taken place on 21.04.2024 at about 11.00 p.m. He also confirmed that the deceased, due to consumption of alcohol, was not in a position to identify his friend's house and knocked at the doors of the adjacent houses at odd hours including the doors of the first petitioner's cousin and she has informed the first petitioner. Therefore, the first petitioner and his driver/the second petitioner, went there and questioned the deceased. Since the deceased has not answered properly, he was assaulted by the residents of that area along with the petitioners, due to which, the deceased sustained injuries. Therefore, the deceased was taken to the hospital and he was admitted in the hospital on 21.04.2024 and he died on 24.04.2024 at about 10.00 a.m.

8. Mr.Arun Swaminathan, learned counsel sought for permission to file an intervening application on behalf of the defacto complainant and submits that the first petitioner is not a practising Advocate and instead of lodging a complaint, he has taken the law into his hands by assaulting the deceased brutally. On account of that, the deceased sustained serious head injuries and died in the hospital. Though the complaint has been registered by mentioning the name of the accused, the



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respondent Police has registered the case under Section 174 Cr.P.C., and thereafter, altered the offence under Section 302 IPC. According to him, the case ought to have been registered under Section 302 IPC, but, the case has been registered under Section 304(ii) IPC. The deceased has not sustained any head injury in the accident, but, he died due to the head injury caused by the petitioners. Since the accused has been granted interim bail for a period of two months, the witnesses in this case have been demoralized.

9. This Court considered the rival submissions and perused the materials placed before this Court.

10. The occurrence, in this case, took place on 21.04.2024, at about 11.00 p.m. at N.Pudur. The complaint was lodged by the father of the deceased on 24.04.2024. The defacto complainant is none other than the father of the deceased. Though the defacto complainant claims that he is an eye-witness for this occurrence, he has preferred the complaint only after three days i.e. on 24.04.2024.

11. The fact remains that three hours prior to the occurrence, the deceased, who travelled in a motorcycle with a pillion rider, met with an accident and



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sustained head injury. He was taken to the hospital. The Doctors, who treated the deceased, noticed that the deceased was under the influence of alcohol and he sustained injury in that accident. On the same day, at about 11.00 p.m., this subsequent occurrence had taken place. But, the defacto complainant is having no reason to say as to why he went to the place of occurrence.

12. The case of the prosecution is that the deceased, in an inebriated condition, has knocked at the doors of the adjacent houses of his friend in the street at odd hours and also the doors of the first petitioner's cousin. The first petitioner, on information from his cousin, along with his driver went there and questioned the deceased, who has not replied properly and therefore, the residents and the petitioners are said to have slapped the deceased, due to which, the deceased fell down and also sustained injuries, apart from the injuries, he already has sustained in the accident at 6.00 p.m. on the same day. Thereafter, he was taken to the Government Hospital, Karaikudi, in 108 ambulance, at about 11.45 p.m.

13. The defacto complainant claiming to be the eye-witness may not have accompanied the deceased at the relevant point of time. The deceased, who was admitted in the hospital on 21.04.2024 at 11.30 p.m., died after three days, i.e. on



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24.04.2024. Till his death, the defacto complainant has not lodged any complaint and only as an afterthought, this complaint appears to have been lodged.

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14. Considering the facts and circumstances of the case and the nature of allegations, this Court is inclined to grant bail to the petitioners with certain conditions.

15. Accordingly, this Criminal Original Petition is ordered and the petitioners are ordered to be released on bail

i) on the petitioners executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand) each, with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Karaikudi.

ii) The petitioners and the sureties shall submit a copy of their Aadhaar Card or any other identity card issued by the government in proof of their residence address;

iii) The petitioners shall report before the respondent Police as and when required for interrogation. They have to co-operate for the investigation.

iv) The petitioners shall not misuse the liberty granted to them by indulging in any further offence and shall not tamper with the prosecution witnesses. They shall be available for the trial as well.



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v) On violation of any of the above conditions by the petitioners, the respondent police shall move an application for cancellation of the bail. Consequently, connected miscellaneous petitions are closed.

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19/06/2024
Sub-Assistant Registrar()
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

- 1 THE JUDICIAL MAGISTRATE,
KARAIKUDI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
- 3 THE INSPECTOR OF POLICE
KARAIKUDI SOUTH POLICE STATION, KARAIKUDI,
SIVAGANGAI DISTRICT.
- 4 THE OFFICER INCHARGE,
SUB JAIL, THIRUPATHUR, SIVAGANGAI DISTRICT
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.P.M.VISHNUVARTHANAN, Advocate (SR-6627[I] dated 19/06/2024)



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ORDER
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SS/SAR- /19/06/2024/10P/7C

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