



CRL OP(MD). No.8338 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 14/06/2024

PRESENT

THE HON'BLE MR.JUSTICE B.PUGALENDHI

CRL OP(MD). No.8338 of 2024

Tamilalagan @ Pencil

... Petitioner/ Accused No.1

Vs

The Inspector of Police,
Karur Town Police Station,
Karur District.
Crime No.114/2023

... Respondent/De Jure Complainant

For Petitioner : Mr.R.Alagumani,
Advocate

For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.114 of 2023 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested and remanded to judicial custody on 16.02.2023 for the offences punishable under Sections 294(b), 449, 506(ii) and 302 IPC in Crime No.114 of 2023, on the file of the respondent police, seeks bail.



CRL OP(MD). No.8338 of 2024

WEB COPY

2.The case of the prosecution is that the petitioner along with A2 said to have trespassed into the house of the deceased and murdered him. The motive for the occurrence is that the petitioner along with the other accused consumed liquor in front of the house of the deceased and the deceased was said to have questioned the accused. For having raised objections to consume liquor in front of his house, he was done to death. Final report has also been filed in the year 2023 and the same was taken on file and transferred to the Court of Sessions for trial in SC No.38 of 2023.

3.The learned counsel appearing for the petitioner submits that the petitioner has moved an application that he is languishing in jail from 16.02.2023 and the co-accused, who is similarly placed, has already been released on bail by the Sessions Court.

4.The learned Additional Public Prosecutor has raised serious objections that the petitioner has evaded trial. There was a threat for the witnesses and though the witnesses were present on 26.02.2024, 11.03.2024 and 25.03.2024, the witnesses could not be examined. Considering this objection made by the prosecution, this Court, by earlier order dated 11.06.2024 has directed the Registry to call for a report from the concerned Sessions Judge. The learned Sessions Judge, Karur has submitted a report for the queries made by this Court as under:-



CRL OP(MD). No.8338 of 2024

Query No.1:	Whether the trial has commenced?
Reply :	Trial not yet commenced
Query No.2:	Whether the witnesses, namely, PW 1 to PW 11 were present on 26.02.2024 and if so, why they have not been examined on that day?
Reply :	On 26.02.2024, the witnesses LW 1 to 3,5 and 6 only present. On that day, the first accused was not produced before this Court by the prosecution side Since the first accused was under judicial custody. A1 and his counsel were absent, as this Court has no power to examine the witnesses in the absence of the accused or his counsel in terms of Section 273 of Cr.P.C. Hence, I was not able to examine the witness for non production of A1 by the Superintendent, Central Prison, Trichy and hamper the trial process. Witnesses LW 1 to 3, 5 and 6 were sent back wihtout being examined. Further, this Court has already intimated to the Superintendent, Central Prison, Trichy that the trial in the said case was fixed on 26.02.2024 and 27.02.2024 and directed to produce the first accused before this Court from 26.02.2024 without fail. But, they did not produce the first accused. Hence, show cause notice was issued to the Superintendent, Central Prison, Trichy and the Inspector of Police, Karur Town PS for non production of first accused. Defer for the examination of LWs until fresh summons.
Query No.3:	The number of witnesses were present on 11.03.2024 and the reasons for not examining those witnesses on that day?
Reply :	On 11.03.2024, no witnesses were present before this Court.
Query No.4:	Whether the case was listed on 25.03.2024 and whether any witnesses were present on 25.03.2024 and the reasons for not examining the witnesses on that particular day?
Reply :	This case was listed on 25.03.2024. No witnesses were present before this Court on 25.03.2024.



CRL OP(MD). No.8338 of 2024

WEB COPY

5. From the report of the learned Sessions Judge, Karur, it appears that though an intimation has been sent to the Superintendent, Central Prison, Trichy, intimating the date of the trial on 26.02.2024, the jail authorities have not sent the accused to the trial Court and therefore, the witnesses LW 1 to LW 3, 5 & 6, who were present before the Court on 26.02.2024 could not be examined by the trial Court. Normally, the accused in order to evade the trial, intimidate the witnesses and to demoralise the witnesses, use absconding tactics on the date of trial. However, in this case non-production of accused has happened either with the help of Superintendent of Prison or due to his negligence.

6. The fact remains that the witnesses, who were present before the trial Court on 26.02.2024 in a case of murder could not be examined and they were sent back. Though the case was posted on 11.03.2024 and 25.03.2024, the trial has not been proceeded. It shows that the witnesses have been demoralised successfully.

7. Considering this peculiar circumstances of this case and the fact that though the date of examination of witnesses has been fixed, it could not be proceeded due to non-production of accused before the trial Court, this Court is not inclined to grant bail to the petitioner. Accordingly, this Criminal Original petition is dismissed with further directions:-

- i. The Principal District and Sessions Judge, Karur shall fix a date of hearing



CRL OP(MD). No.8338 of 2024

WEB COPY

within a period of four weeks from the date of receipt of a copy of this order and shall conduct the trial and conclude the same as expeditiously as possible.

ii. The learned Judge is directed to obtain a reply from the Superintendent, Central Prison, Trichy and forward the same to the Director General of Prisons for taking necessary Departmental proceedings as against the erring officer, who has prevented the trial by not producing the accused before the trial Court on 26.02.2024 and also not complying with the intimation made by the learned Judge.

sd/-
14/06/2024

/ TRUE COPY /

/07/2024

Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

vrn
To

1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, KARUR.

2 THE INSPECTOR OF POLICE, KARUR TOWN POLICE STATION,
KARUR DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.

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

+1 CC to M/s.DR.R.ALAGUMANI, Advocate (SR-6553[I] dated 14/06/2024)



WEB COPY



CRL OP(MD). No.8338 of 2024

ORDER

IN

CRL OP(MD) No.8338 of 2024

Date :14/06/2024

RS/JGB/SAR-(25.07.2024) 6P 6C

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