



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 08/08/2024

PRESENT

The Hon`ble Mr.Justice D.BHARATHA CHAKRAVARTHY

CRL OP(MD). Nos.10104 & 10107 of 2024

1.Esakkipandi
2.Arumugam
3.Selvam

... Petitioners 1 to 3/ Accused
in Crl.OP(MD)NO.10104 of 2024

Masanam

... Petition/2nd Accused
in Crl.Op(MD)No.10107 of 2024

Vs.

The State
Rep. by the Inspector of Police,
Seydunganallur Police Station
Thoothukudi District.
Cr.No.118 of 2023

... Respondent/Complainant
in both Crl.OPs

M.Selvi

... Intervene Petitioner/Defacto complainant/
Defacto complainant
in Crl MP(MD)NOs.7235 & 7232 OF 2024
in CRL OP(MD)Nos.10104 & 10107 of 2024



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For Petitioner

in both CrI.OPs

: Mr.Aayiram K.Selvakumar
Advocate.

For Respondent

in both CrI.OPs

: Mr.R.M.Anbunithi,
Additional Public Prosecutor
Mr.S.Sivaprakash
Advocate for Intervenor
in both CrI.OPs

PETITION FOR BAIL's Under Sec.483 of BNSS

PRAYER :- For bail's in Crime No.118 of 2023 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/Accused, who were arrested and remanded to judicial custody on 07.08.2023 for the offences punishable under Sections 147, 148, 449, 294(b), 302, 307, 115, 506(ii), 109 of IPC and Section 4 of TNPHW Act @ 147, 148, 449, 294(b), 302, 307, 115, 506(2), 109, 120B, 114, 324, 341, 149, 34 of IPC, and Section 4 of TNPHW Act in crime No.118 of 2023 on the file of the respondent police, seek bail.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the respondent Police and the learned Counsel for the intervenor.

3. The petitioners in both the CrI.OPs are arrayed as A1 to A4 in Crime No.118 of 2023, in which, the charge sheet is now filed and the case is pending in S.C.No.71 of 2024 on the file of the I Additional District and Sessions Judge, Tuticorin.



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4. The relevant facts of the case are that the deceased is said to be accused in several cases and accused No.5 in this case is said to be an Advocate representing him in many cases. While so, on a particular day, it is the case of the de facto complainant that after agreeing to hold the brief for the deceased, the Advocate indulged in misconduct in having contact with the other side and getting money from the other side also.

5. Under these circumstances, there has been physical exchanges and quarrel between the Advocate as well as the accused in the open Court itself. Immediately, the Court and the Police present in the Court premises had intervened and in view of the injuries sustained by both the parties, both of them sent to different hospital. It is stated that even in the hospital, again they quarreled. Thereafter, it is the case of the prosecution that the Advocate had informed the other accused about the fact that the deceased accused had attacked him in the Court. Enraged by this, on the same day evening, all the accused had brutally attacked the deceased, his wife and also his tender child. The deceased succumbed to injuries on the spot, while the wife and the child were saved. Hence, the case.

6. The learned Additional Public prosecutor appearing for the respondent Police would vehemently oppose the grant of bail by contending that eventhough A5 to A9 are already enlarged on bail, A1 to A4 are having bad antecedents



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including the cases of murder and attempt to murder against them. Only considering the fact that they were already detained under the Goondas Act and that there is also a subsequent case in crime No.67 of 2024 registered against some of the accused for threatening PW1 – eyewitness. The injured witness in this case was none other than the wife of the deceased. Already protection has been granted to her under the Witness Protection Scheme 2018. She is also residing in the same village. If the petitioners are enlarged on bail, that would not only resulted in threatening of the witness and there will be further danger to the life of PW1 also.

7. The learned counsel for the petitioner would counter the said allegations by stating that except the case being treated as sensitive, merely because, A5 is a leading advocate, this is same as any other murder case also and the case is blown out of proportions.

8. I have considered the rival submissions made on either side and perused the material records of the case.

9. I have considered the first option of keeping the accused in prison, so that the trial could be proceeded. However, it is seen that the discharge application is not filed by the present petitioners herein, but, by A9. The role played A9, according to the prosecution, is that he looked into the whereabouts and informed to the other



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pending.

accused. Therefore, he has filed the discharge application and the same is still

10. In view thereof, eventhough there has been a direction by this Court for early completion of the trial, the Trial could not be taken up. Therefore, I took into consideration the serious nature of previous cases and the fact that the petitioners were arrested on 04.08.2023 and 07.08.2023 respectively and they have completed one year in prison and the said fact is also taken into account. The apprehension, which is expressed on behalf of the prosecution is that they may indulge in threatening of the witness, the said apprehension can be overcome by directing the petitioners to stay away and also imposing further condition that they will attend the hearing of the Court without fail for every hearing and also will not further drag on the proceedings. In view thereof, I am of the view that the petitioners have made out a case for a grant of bail.

11. Accordingly, these Criminal Original Petitions are allowed and the petitioners are ordered to be released on bail, on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Thoothukudi.



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(a) the petitioners and 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 Accused 1 and 2 viz., Esakkipandi and Masanam shall stay in Thanjavur and report before the Medical College Police Station, Thanjavur daily at 10.30 a.m for a period of 12 weeks; the Accused 3 and 4 viz., Arumugam and Selvam shall stay at Karur and report before the Karur Town Police Station, Karur daily at 10.30 a.m for a period of 12 weeks, except on the dates of hearing of the case before the trial Court. After complying the condition, the petitioners should present for all days of hearing and they will not in any manner attempt to drag on the case further;

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;

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

(e) 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;



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

sd/-
08/08/2024

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08/08/2024
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

APD/TRP

TO

- 1 THE JUDICIAL MAGISTRATE NO.II
THOOTHUKUDI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI.
- 3 THE INSPECTOR OF POLICE
SEYDUNGANALLUR POLICE STATION, THOOTHUKUDI DISTRICT.
- 4 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI, TIRUNELVELI.
- 5 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY DISTRICT.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

- 1 THE INSPECTOR OF POLICE
MEDICAL COLLEGE POLICE STATION, THANJAVUR.



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

+2 CC to M/s.AAYIRAM K.SELVAKUMAR, Advocate (SR-9703, 9704[I] dated
08/08/2024)

ORDER
IN
CRL OP(MD). Nos.10104 & 10107 of 2024
Date :08/08/2024

SS/SAR- /08/08/2024/8P/11C

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