

(2024) 02 MAD CK 0060

Madras High Court (Madurai Bench)

Case No: Criminal Original Petition (MD) No. 1143 Of 2024

V.Pandivel

APPELLANT

Vs

Inspector Of Police

RESPONDENT

Date of Decision: Feb. 12, 2024

Acts Referred:

- Indian Penal Code, 1860 - Section 147, 148, 229A, 342

Hon'ble Judges: M.Dhandapani, J

Bench: Single Bench

Advocate: J.Sankara Pandian, S.Manikandan

Judgement

M.Dhandapani, J

1. The petitioner / accused No.9, who was arrested and remanded to judicial custody on 15.12.2023 for the offence punishable under Sections 147, 148, 342, 294(b), 307 and 302 IPC in Crime No.790 of 2023 on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that there was an enmity between the deceased person, namely, Navaneethan and the accused persons with regard to illegal transportation of PDS rice. On 23.11.2023, when the deceased and the defacto complainant were standing near one Plastic Company at Vandiyoor, Madurai, the accused persons came there and attacked the defacto complainant and the deceased and thereby, the deceased lost his life and the defacto complainant sustained grievous injuries. Hence, the complaint.

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 the petitioner has been falsely implicated in this case and there is no specific overt act against the petitioner. He would further submit that the petitioner is in judicial custody from 15.12.2023. Hence, he prays for bail.

4. The learned Government Advocate (crl.side) appearing for the respondent would submit that the petitioner is a habitual offender of illegal transportation of PDS rice and the deceased and the defacto complainant are also the offenders of illegal transportation of PDS rice. There was a dispute between the parties with regard to illegal transportation of PDS rice, for which, the accused persons attacked the deceased and the defacto complainant and thereby, the deceased has lost his life and the defacto complainant sustained injuries. Subsequently, the defacto complainant was discharged from the hospital and the petitioner is having four previous cases which are similar in nature. Hence, he vehemently opposed for grant of bail.

5. Heard the learned counsel on either side.

6. Considering the facts and circumstances of the case and the period of incarceration and the fact that there is no specific overt act against the petitioner and that the cases pending against the petitioner are with regard to illegal transportation of PDS rice and no heinous offence has been made out against the petitioner, 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 No.6, Madurai, 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 respondent police daily at 10.30 a.m., until further orders.

(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.