

In the Court of the V Additional District Judge, Madurai
Present: **Tmt. N.Nagalakshmi, M.A., B.L.,**
V Additional District Judge, Madurai (FAC)
Thursday the 9th day of July 2020

CrI.M.P.Nos.331/2020 in SC No.491/2017

R.Kannan

-- Petitioner

/ Vs /

State through the Inspector of Police,
Keeraithurai police station in crime no.565/2016

-- Respondent

This petition is taken up today for hearing at request through e-mail / e-petition and after hearing the arguments of Tmt.M.Kaladevi, Advocate for the petitioner and of Thiru S.Ramesh, the Addl. Public Prosecutor for the State over conference call, this court passed the following

ORDER

Due to national lock down for COVID-19 virus pandemic, as a result of prohibitory order u/s 144 of Cr.p.c. has been promulgated by the Government of Tamilnadu since 24.6.2020 for Madurai Corporation and in turn regular work of the subordinate judiciary has also been suspended by the Hon'ble High Court of Madras till 12.7.2020. Whereas exceptions have been granted to attend urgent works like bail depending upon the facts and circumstances of the case and also the nature of emergency. Accordingly this petition has been filed on 3.7.2020 by online and taken on file.

1. Bail application u/s 439 of Cr.p.c.
2. The offences alleged are u/s 302 IPC.
3. The learned counsel for the petitioner stated in the petition that a case has been registered against the petitioner/ accused in Keeraithurai police station crime no.565/2016 u/s 302 IPC. The petitioner is innocent and has

not committed any offence and he was remanded to judicial custody by NBW on 23.7.2018 and he is in custody from then. The petitioner is having 2 children and one aged mother who is suffering from cancer. Due to COVID 19, the case is under prolonged stage and if the petitioner is released on bail, he would earn money and would take care of his children and aged ailment mother. He has permanent residence and he would not abscond if he is released on bail and he may be released on personal bond without insisting sureties and prayed to grant bail to the petitioner.

4. Per contra the learned Addl. Public prosecutor submitted in the reply that the case was committed to this court and is pending in SC No.491/2017. The petitioner has two children and he frequently used to quarrel with the deceased wife in an intoxicated mood and on 4.8.2016 at about 3.30 p.m., he wrangled with his wife and assaulted her with window wooden log on her head and murdered her and he was arrested on 5.8.16 and released on bail by the Principal District Judge, Madurai in Crmp No.5208/16 dt.2.11.2016 and due to his non appearance NBW was issued and he was produced under NBW on 23.7.2018 and he is in custody from then. The petitioner is having the habit of consuming alcohol and he has murdered his wife with wooden log and the case is posted for defence witness. At this stage the petitioner is released on bail, he would abscond and not appear for the trial proceedings and tamper the witness and strongly objected to grant bail to the petitioner.

5. Heard both side through Conference call.

6. Considered the argument of both side. The learned counsel for the petitioner would argue that the accused was under judicial custody from 23.7.2018 and further if the petitioner is enlarged on bail he will abide any condition imposed by the Hon'ble Court. Further the petitioner counsel

argued that his aged mother is bed ridden due to cancer and he has to take care of his two children. Any stringent condition may be imposed and the bail may be considered.

7. Per Contra, the learned Addl.Public Prosecutor vehemently argued that the case is posted for examination of defence witnesses and he has murdered his wife in an inebriated manner. Further he stated that initially the petitioner moved bail through one counsel and now he moved bail through the Legal aid counsel. If he is enlarged on bail, the progress of the cases will be very difficult and he is remanded to judicial custody after a long gap of 1 year and 8 months period on execution of NBW and strongly objected to grant bail to the petitioner.

8. On perusal of records, the accused namely Kannan was released on bail on 2.11.2016 and the case was committed to Sessions court on 10.8.2017 and the accused was directed to appear before the Sessions court on 25.10.2017. But the accused was absent on 25.10.2017 and the case was posted on 23.11.2017 and on 23.11.2017 also, the accused was absent and hence ordered to issue NBW and then it was executed on 23.7.2018 and he was under judicial custody from 23.7.2018. Considering the absence of the accused for long time and considering the fact that the case is under final stage and the strong objection of the learned Addl.PP this court is not inclined to grant bail to the petitioner.

9. In the result, the petition is dismissed.

Sd.N.Nagalakshmi
V Addl.District Judge, Madurai.(FAC)

Copy to

1. The Inspector of Police, Keeraithurai Police Station
2. The Superintendent, Central Prison, Madurai
3. The petitioner through his counsel