

In the Court of the Principal Sessions Judge, Madurai.

Present : Thiru. P.Vadamalai, B.Com., B.L.,

Principal Sessions Judge, Madurai.

Monday, this the 18th day of January -2021.

Crl.M.P.No.235/2021

Ottaiyan @ Malairajan, S/o.Rajendran

... Petitioner/Accused.

Vs

State through the Inspector of Police,

Annanagar P.S. Cr.No.1774/2020

... Respondent/Complainant.

This petition taken up today for hearing at request through e.mail/ e.petition and after hearing the arguments of Thiru.C.Karthikeya, Advocate for the petitioner and of Thiru.M. Tamil Chelvan, the Public Prosecutor for the state over conference call, this court passed the following

Order

1. Bail application u/s 439 Cr.P.C.
2. The offences alleged are under section 147, 148, 294(b), 342, 302, 307 and 506(ii) of IPC r/w 149 and 120(B) of IPC
3. Heard both sides.
4. The case of the petitioner is that a case has been registered against the petitioner and others in Cr.No.1774/2020 of Anna Nagar Town P.S. U/s. 147, 148, 294(b), 342, 302, 307 and 506(ii) of IPC r/w 149 and 120(B) of IPC. The name of the petitioner did not find place in the FIR. The date of occurrence was on 13.10.2020. Only based on the confession statement of the co-accused, the petitioner was falsely implicated in this case. The petitioner was arrested and remanded to judicial custody on 28.10.2020 and he is in judicial custody for the past 83 days. The properties have been recovered. Investigation is almost

over. The co-accused were already released on bail. Hence, he prays to grant bail to the petitioner.

5. The learned public prosecutor would submit that initially 5 named accused and one unnamed accused were cited in the FIR, subsequently during the course of investigation totally 12 accused were arrayed in this case. The petitioner is arrayed as A6. The defacto complainant is the father of the deceased. Earlier to the occurrence, the deceased cut the ear of the 1st accused, Due to that, on 13.10.2020 all the accused unlawfully assembled and wrongfully restrained the deceased and attacked him with weapons indiscriminately and murdered him in the Pandi Kovil premises, further they criminally intimidated the parents of the deceased. All the accused were involved in the occurrence. It is a day time brutal murder in the temple premises. Further the petitioner was detained under Goondas Act on 16.1.2021. Investigation is pending. Hence he objected to grant bail to the petitioner.

6. According to the public prosecutor, it is a day light murder, and the petitioner was detained under Goondas Act. As per the learned counsel for the petitioner, already co-accused were enlarged on bail and investigation is over. The petitioner has been in judicial custody for the past 83 days. Detention Under Goondas Act is not a bar to grant bail to the petitioner. So, considering the duration of the custody of the petitioner and the fact that the co-accused were already granted bail and the investigation might have been completed by this time, this Court is inclined to grant bail to the petitioner on condition.

7. In the result, the petitioner is ordered to be enlarged on bail on his executing a bond for Rs.10,000/- along with two sureties for a like sum each to the satisfaction of Judicial Magistrate No.6, Madurai subject to condition that after release the petitioner shall appear and sign before the Inspector of police, respondent police station daily at 10.00a.m. until further orders. The petitioner shall co-operate with the investigation and he shall not threaten the witnesses.

He shall not induce witnesses and he shall not cause obstacles to the pending investigation. If there is any violation of condition, the Investigation Officer is within his discretion to approach the Court of the learned Judicial Magistrate, concerned for cancellation of bail even though bail granted by the Sessions Court as per the ruling of the Hon'ble Supreme Court reported in **P.K.Shaji/Vs/State of Kerala, (2005) AIR S.C.W.5560**. Accordingly this petition is allowed.

Pronounced by me in Open Court on the 18th day of January -2021.

Sd/- P.Vadamalai

Principal Sessions Judge, Madurai

Copy to

1. The J.M.No.6. Madurai.
2. The Inspector of Police, Annanagar P.S.
3. The Superintendent, Central Prison, Madurai.
4. The Petitioner through his counsel.