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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.1519 of 2022

Venkatesan

...Petitioner

Vs.

State rep. by
The Inspector of Police,
Soramangalam Police Station,
Soramangalam,
Salem District
(Crime No. 989 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in P.R.C.No. 111 of 2021 on the file of the Judicial Magistrate No.2, Salem (Crime No. 989 of 2021 on the file of the Inspector of Police, Sooramangalam police station.

For Petitioners : M/s.M.Senthil Kumar

For Respondent : Mr.A.Gokulakrishnan
(Additional Public Prosecutor)

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 18.12.2021 for the offences under Sections 147, 148, 149, 449, 302, 201 and 120 B IPC, in Crime No. 989 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the 1st accused who is the mother of the deceased had given a complaint stating that on 14.12.2021, her son was found unconscious state and immediately she took her son to a private hospital and subsequently admitted him in the Salem Government Hospital wherein, her son died. Initially the case was registered under Section 174 Cr.P.C. and later during investigation it was found that on the instigation of the mother of the deceased, the other accused committed the murder of the deceased. Hence, the case was altered as stated above.



3.The learned counsel for the petitioner would submit that the petitioner is the neighbour of A1 and he has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case and that the petitioner has been suffering incarceration for more than 35 days from 18.12.2021. He would further submit that the charge sheet has been filed and he case has been taken on file in PRC No.111 of 2021 on the file of the learned Judicial Magistrate -II, Salem and hence, he would pray for grant of bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent would raise objection stating that there are totally 6 accused in this case and the petitioner is arrayed as A2 and he is the neighbour of A1. A1 is the mother of the deceased. Since, the deceased converted his gender and started begging in the street, his mother/A1 along with other accused who are neighbours and relatives killed the deceased but admits that the charge sheet has been filed and the same has been taken on file.

5. Considering the facts and circumstances of the case and the fact that the charge sheet has been filed and the same has been taken on file and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

(a) Accordingly, the petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the petitioner has been confined and thereafter on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the learned Judicial Magistrate No.II, Salem, Salem District, within 15 days from the date of commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d) the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two months and thereafter, shall report before the respondent police as and when required for interrogation.

(e) the petitioner shall not commit any offences of similar nature;



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

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

(h) on breach of any of the aforesaid conditions, the learned Judicial 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];

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

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-
25/01/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE NO.II,
SALEM, SALEM DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE,
SALEM DISTRICT (FOR INFORMATION) .

3 THE INSPECTOR OF POLICE,
SORAMANGALAM POLICE STATION,
SORAMANGALAM,
SALEM DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.



5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

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CC to M/S R.MURUGA BHARATHI Advocate on payment of necessary
charges

CRL OP.1519/2022

Date :25/01/2022

INBA~27/01/2022