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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2022

CORAM:

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

Cr1.O.P.No.2300 of 2022

1. Mutheesh
2. Diwakar

...Petitioner/Accused 1 & 5

Vs.

State rep. by
Inspector of Police,
Mappedu Police Station,
Thiruvallur District.
(Crime No.535 of 2021)

...Respondent/Complainant

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail in Crime No.535 of 2021 pending investigation on the file of the Respondent police.

For Petitioner : Mr.G.Balamanikandan

For Respondent : Mr.N.S.Suganthan
Government Advocate

ORDER

The petitioners who were arrested and remanded to judicial custody on 19.12.2021 for the offences under Sections 147, 148, 448, 294(b), 323, 324, 307 and later altered into Section 302 of IPC in Crime No.535 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 14.12.2021 at 10.30 p.m the petitioners along with other accused persons trespassed into the deceased house and assaulted him with wooden log, due to which, he sustained injuries and died. Hence, the complaint.

3. The learned counsel for the petitioners submit that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. He further submits that they have been suffering incarceration for 45 days from 15.12.2021 and he would pray for grant of bail to the petitioners.



4. The learned Government Advocate raised objection stating that the first petitioner detained under goondas and he further submitted that the investigation almost completed.

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5. As far as first petitioner/mutheesh is concerned, he is detained under goondas, this Court is not inclined to grant bail to the first petitioner/Mutheesh.

5. Considering the facts and circumstances of the case and the submissions made by both counsel and also considering the period of incarceration undergone by the second petitioner and the investigation was almost completed and there is no previous case as against the petitioners, this Court is inclined to grant bail to the petitioner with certain conditions;

(a) the second 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 second petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only), before the learned Judicial Magistrate No.II, Thiruvallur, 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 Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d) the second petitioner shall report before the respondent police daily at 10.30 a.m. for a period of two months ;

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

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

(h) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the second petitioner in accordance with law as if the conditions have been imposed and the second 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;



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

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-sd/-

04/02/2022

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, THIRUVALLUR.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR DISTRICT. [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

4 THE INSPECTOR OF POLICE,
MAPPEDU POLICE STATION,
THIRUVALLUR DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.G.BALAMANIKANDAN Advocate on payment of necessary charges SR.NO.1883

CRL OP.2300/2022

Date :04/02/2022

RW 07/02/2022