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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2022

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.OP.No.12919 of 2022

1.Vengatesan @ Venkatesh
2.Thirunavukarasu
3.Kakkan

..Petitioners

Vs.

State by
The Inspector of Police,
Sipcot Police Station,
Tiruvallur District
crime No.82 of 2022

..Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioners on bail in crime No.82 of 2022 pending investigation on the file of the respondent police.

For Petitioners : Mr.M.Mohammed Riyaz
for Mr.R.Sasikumar

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor

ORDER

The petitioners, who were arrested and remanded to judicial custody on 14.05.2022 for the offence punishable under Section 304(2) of IPC altered into 337, 338 and 304(2) of IPC in crime No.82 of 2022 on the file of the respondent police, seeks bail.

2. It is the case of the prosecution that on 13.04.2022, when the deceased was on catering service in JFN Thirumana Mandapam at Pethikuppam in a lift for loading food items, due to overload, the wire of the lift broke down and due to which the deceased was crushed by the iron rod in the lift and died on the spot and another one, who was injured, also died on 24.05.2022. The specific allegation



against the petitioners is that they are Supervisor, Manager and Lift Operator and due to their negligence, the accident happened. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that there is no fault on the part of the petitioners as alleged by the prosecution and only due to overload of the goods, the accident happened. Hence, he prays to grant bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent police filed counter and submitted that only due to the negligent administration and non-conforming the standard of lift operation, the accident happened. Further, without getting proper permission, the accused installed the lift in the marriage hall. He would further submit that on the date of occurrence, the petitioners, who are responsible for the day to day activities, allowed the deceased by carrying the overload in the lift, therefore the accident happened. Hence, he vehemently opposed to grant bail to the petitioners.

5. There are totally four accused, in which the petitioners are arrayed as A2 to A4. They are Manager, Supervisor, Lift Operator of the marriage hall, which is owned by A1. So far, the first accused has not been secured. Even according to the case of the prosecution, due to overload of the goods in the lift, the wire was broken down and lift was dropped in the base. Due to the impact, two of the persons who travelled in the lift died and other persons sustained injuries. Even according to the case of the prosecution, due to mechanical fault, the lift fell down and due to which, two persons unfortunately died. Admittedly, the third petitioner is being Lift Operator, he did not operate the lift. The persons who were engaged for catering, they themselves operated the lift with huge quantity of food materials. That apart, even according to the case of the prosecution, not on the part of the negligence, the accident took place. Further, absolutely there was no intention for the untoward incident happened on the date of occurrence. Therefore, the offence under Section 304(ii) of IPC would not attract as against the petitioners.

6. Considering the above facts and circumstances of the case and the period of incarceration by the petitioners, this Court is inclined to grant bail to the petitioners. Accordingly, the petitioners are ordered to be released on bail on their executing a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) (each) with two sureties, each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Gummidipoondi 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.

WEB COPY [b] the petitioners shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation

[c] the petitioners shall not abscond either during investigation or trial.

[d] the petitioners shall not tamper with evidence or witness 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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].

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

-sd/-

09/06/2022

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

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

TO

1 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, GUMMIDIPOONDI.

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

3 THE OFFICER INCHARGE,
SUB JAIL, PONNERI.



4 THE INSPECTOR OF POLICE,
SIPCOT POLICE STATION,
TIRUVALLUR DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.R.SASIKUMAR Advocate on payment of necessary
charges SR.NO. 8706

CRL OP.12919/2022

Date :09/06/2022

RW-09/06/2022