



Crl.O.P.No.23205 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2022

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.23205 of 2022

1. Kesavan
2. Kanniyappan

... Petitioners

Vs.

State rep. by,
The Inspector of Police,
Erumapatti Police Station,
Namakkal District.
(Crime No.208 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the Petitioners on bail in Crime No.208 of 2022 on the file
of the respondent Police.

For Petitioners : Mr.S.Senthil

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)

For Intervenor : Mr.C.S.Loganathan



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ORDER

The petitioners, who were arrested and remanded to judicial custody on 06.08.2022, for the offences punishable under Section 302 of IPC, in Crime No.208 of 2022, on the file of the respondent police, seek bail.

2. The case of the prosecution as per the defacto complainant Saravanan is that there was a property dispute between the defacto complainant's family and A2, pursuant to which, the petitioners along with their henchmen and others had committed murder of his brother, Selvaraj. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would also submit that the A1 in this case is the brother-in-law and A2 in this case is the sister-in-law of the deceased. He would also submit that there was previous enmity on account of property dispute, only based on suspicion, a complaint has been given as against the petitioners and that there



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is no eye witness to the occurrence. He would further submit that the petitioners are in custody from 06.08.2022 and there is no previous case as against the petitioners. He would also state that the 2nd petitioner is the employee of the 1st petitioner. He would further state that the major part of the investigation is over. Therefore, he prays for grant of bail to the petitioners.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioners joined together and committed the murder of the victim on account of property dispute. He would also submit that two other accused in this case are yet to be apprehended and that, the investigation is pending. Therefore, he vehemently opposed to grant bail to the petitioners.

5. The learned counsel appearing for the intervenor would submit that it is a case of preplanned murder due to the petitioner had enmity with the deceased on account of property dispute. He would also submit that the accused compelled the defacto complainant and his brother to transfer their



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property in favour of them, since, it was refused by the deceased, the petitioners had planned and committed the murder of the deceased by engaging the 2nd petitioner, who is the henchmen. He would further submit that it may look like a case of circumstantial evidence, but there are ample evidence to show that the petitioners are the persons, who have committed the murder of the deceased in a preplanned manner. Therefore, he vehemently opposed to grant bail to the petitioners.

6. Heard both the learned counsel and perused the materials available on record.

7. Taking into consideration of the facts and circumstances of the case, the submissions made by the learned counsel and that the petitioners are in custody from 06.08.2022 and even as per the complaint, it is stated that the petitioners have been implicated only based on suspicion, this Court is inclined to grant bail to the petitioners.



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8. Accordingly, the petitioners are ordered to be released on bail on their executing a separate bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the **learned Judicial Magistrate, Sendamangalam**, 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;

[b] the petitioners shall stay at Tirunelveli and report before the Inspector of Police, Town Police Station, Tirunelveli, daily at 10.30 a.m., and 05.30 p.m., until further orders;

[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



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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.

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To

1. The Judicial Magistrate,
Sendamangalam.
2. The Inspector of Police,
Erumapatti Police Station,
Namakkal District.
3. The Central Prison, Salem.
4. The Public Prosecutor,
High Court of Madras.



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