

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2022

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

Crl.O.P.No.23509 of 2022

S.Mahesh Kumar

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Eravanchery Police Station,
Thiruvarur District.

(Crime No.162/2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in connection with the Crime No.162
of 2022 pending investigation on the file of the respondent Police.

For petitioner : Mr.G.Anandaraj

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

ORDER

The petitioner, who was arrested on 27.08.2022 and remanded to judicial custody on 31.08.2022 for the offences punishable under Sections 302, 147, 148, 294(b), 341 of IPC, in Crime No.162 of 2022 on the file of the respondent police, seek bail.

2. The case of the prosecution is that due to the previous enmity, on account of the murder of one Ganesan/father of A1 in the year of 2020, on 19.06.2022, petitioner along with other accused dashed their car against the son of the de-facto complainant/victim, who was standing in front of his house and on his falling down, the accused assaulted him brutally with machete, caused severe injuries, due to which, he died on the spot. Hence, the complaint.

3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case, based on the confession statement alleged to have been given by one of the accused. He further submitted that the petitioner is an Engineering

Graduate, who has been undergoing coaching for UPSC exams. He also submitted that on the particular day, the petitioner was attending his class at Trichy and his name is unnecessarily roped in in this case. He further submitted that even assuming without admitting the petitioner's presence, the allegation against the petitioner is that he was found along with the other accused and the petitioner was arrested on 27.08.2022 in Delhi and produced before the learned District Munsif cum Judicial Magistrate and remanded to judicial custody on 31.08.2022. He further stated that there are ample evidence to show that the petitioner was attending the classes at the relevant time. Therefore, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioner is a relative of the main accused and that the first accused had an enmity over the deceased on account of the murder of his father on 08.10.2020 and in order to wreak vengeance, joint together with the other accused, dashed against the victim by their car and on him falling down, brutally attacked him with machete, due to which he sustained grievous injuries and died on the spot. He further submitted that the name of the petitioner has been implicated based on the confession

statement given by the other accused, as if the petitioner has accompanied the other accused. Hence, he vehemently opposed to grant bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record including the materials submitted by the petitioner.

6. It is the case of the petitioner that the petitioner has been implicated in this case only based on the confession statement given by one of the co-accused and the allegation against the petitioner is that he has accompanied the other accused and other than that the petitioner has not even touched the victim. Taking into consideration the above facts and circumstances of the case, this Court is inclined to grant bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail on his executing a 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 Court, Nannilam**, 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 petitioner shall stay at Chennai and report before the Inspector of Police, North Beach Police Station, everyday at 10.30 a.m., until further orders;

[c] the petitioner shall not abscond either during investigation or trial;

[d] the petitioner 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 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]*;

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

30.09.2022

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To

1. The Judicial Magistrate,
Nannilam.
2. The Inspector of Police,
Eravanchery Police Station,
Thiruvarur District.
3. The Sub Jail,
Nagore, Nagapatinam District.
4. The Inspector of Police,
North Beach Police Station,
Chennai.
5. The Public Prosecutor,
High Court of Madras.

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A.D.JAGADISH CHANDIRA.,J.

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