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Crl.O.P.No.24373 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2022

CORAM

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

Crl.O.P.No.24373 of 2022

1. Anbarasu @ Anbu
2. Balamurugan @ Bala

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
T-19, Kelambakkam Police Station,
Chennai.
Crime No.352 of 2022.

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners on bail, pending investigation in Crime
No.352 of 2022, on the file of the respondent Police.

For Petitioners : Mr.A.Nagarajan for
Mr.K.R.Ramesh Kumar

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

For Intervenor : Mr.S.Shankar



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ORDER

The petitioners, who were arrested and remanded to judicial custody on 18.09.2022, for the offences punishable under Sections 147, 148, 294(b), 427, 448, 323, 324, 307 and 506(2) of IPC, in Crime No.352 of 2022 on the file of the respondent police, seek bail.

2. The case of the prosecution as per the defacto complainant is that on 16.09.2022, A1 has gone to the shop of the defacto complainant at 11 p.m and purchased the cigarette, when the defacto complainant asked for money, he refused to pay the money and threatened him and gone away. On 17.09.2022, A1 along with the petitioners and 7 other accused came to the shop of the defacto complainant with wooden log and invited a quarrel. During the quarrel, A1 along with other accused have intimidated and assaulted the defacto complainant and his two other staffs, resulting in their sustaining injuries and the entire shop was also ransacked. Hence, the complaint.



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3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that the petitioner along with his friends had gone to the shop of the defacto complainant and purchased things, there was a quarrel, the incident has happened in a spur of the moment, there is no motive. He would also submit that the petitioners are in judicial custody from 18.09.2022 and the injured has been discharged from the hospital and there is no previous case pending against them. Therefore, he prays for grant of bail to the petitioners.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioners along with A1 and 7 others have gone to the shop of the defacto complainant, invited a quarrel and assaulted the defacto complainant and his two staffs and also ransacked the entire shop. He would further submit that there is no previous case pending against the petitioners. Therefore, he vehemently opposed to grant bail to the petitioners.



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5.The learned counsel for the intervener / defacto complainant would submit that it is a case where the petitioners have come to the shop of the defacto complainant on the previous day and purchased a cigarette and refused to pay the money. On the next day, with a motive to assault the defacto complainant, the petitioners along with other accused have come to the shop with wooden log and assaulted the defacto complainant and also ransacked articles worth about 5 lakhs in the shop and entire episode has been recorded in the CCTV footages. Hence, he vehemently opposed for grant of bail to the petitioners.

6.In reply, the learned counsel for the petitioners would submit that till date, the respondent shall not invoke TNPPDL Act and the defacto complainant is taking an exaggerated version. He would further submit that there is no previous case pending against them and the petitioners are aged about 23 and 19 years respectively. Hence, he prays for grant of bail to the petitioners.



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7. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.Side) and perused the materials available on record.

8. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel and also taking note of the fact that the injured has been discharged from the hospital and the period of incarceration suffered by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

9. Accordingly, each of the petitioners are ordered to be released on bail on their executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five thousand only)** each with **two sureties**, each for a like sum to the satisfaction of the **learned Judicial Magistrate No.I, Chengalpattu**, 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;



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[b] the petitioners shall report before the respondent Police daily at 10.30 a.m and 5.30 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 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-I, Chengalpattu.
2. The Inspector of Police,
T-19, Kelambakkam Police Station,
Chennai.
3. The Sub Jail,
Chengalpattu.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA., J.

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