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Crl.O.P.No.25100 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2022

CORAM

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

Crl.O.P.No.25100 of 2022

Sivanandham

... Petitioner

Vs.

State Rep. by
Inspector of Police,
E-1, Mylapore Police Station,
Chennai - 81
(Cr.No.396 / 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Cr.No.396 of 2022 pending on the
file of respondent police.

For Petitioner : Mr.A.Mohammed Iqbal

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 18.09.2022, for the offences punishable under Sections 294(b), 324, 307 & 506(ii) of IPC, in Crime No.396 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Dharma Arasu is that on 16.09.2022 at 02.30 p.m., while he was sitting at Canal Bank Road TASMACH shop along with his friends, an unknown person on account of previous enmity had come and attacked him with a knife on his head and had also repeatedly cut him and he has been taken to Government Hospital, Royapettah and the assailant had escaped in a motor cycle with another friend, who was waiting. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would also submit that this is the second application for bail and the earlier application for bail in Crl.O.P.No.23664 of 2022 was dismissed on



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28.09.2022 on the ground that the injured was in the hospital. He would further submit that the injured has been now discharged from the hospital and there are no previous cases as against the petitioner. He would also state that the co-accused i.e., A2 in this case has been granted bail by this Court in Crl.O.P.No.23661 of 2022 on 29.09.2022. Therefore, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioner along with the other accused had planned and they have inflicted severe injuries on the victim. He would also submit that though the victim is discharged from the hospital, the injuries sustained by him are grievous in nature. Therefore, 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..



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6. It is seen that as per the complaint, the victim is stated to have been assaulted by a single person and there is no allegations as if the other person have also assaulted him.

7. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel and that the petitioner is only A3 in this case and there is no specific overt act as against him, this Court is inclined to grant bail to the petitioner with certain conditions.

8. 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 XVIII Metropolitan Magistrate Court, Saidapet**, 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 petitioner shall report before the respondent Police, daily at 10.30 a.m., and 05.30 p.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.

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To

1. The XVIII Metropolitan Magistrate Court,
Saidapet.
2. The Inspector of Police,
E-1, Mylapore Police Station,
Chennai - 81.
3. The Prison II, Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA., J.

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