



Crl.O.P.No.24911 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2022

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

Crl.O.P.No.24911 of 2022

Gandhi

... Petitioner

Vs.

State represented by,
The Inspector of Police,
Brammadesam Police Station,
Thiruvannamalai District.

(Crime No.149/2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in Crime No.149 of 2022 on the file
of the respondent.

For Petitioner : Mr.V.R.Appaswamee

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 20.09.2022 for the offences punishable under Section 302 of IPC in Crime No.149 of 2022 on the file of the Respondent Police, seeks bail.

2. The case of the Prosecution as per the de-facto complainant/wife of the deceased is that on account of the land dispute, the petitioner had committed murder of the de-facto complainant's husband. Hence, the case.

3. The learned Counsel appearing for the petitioner would submit that it is a case and a case in counter. He would further submit that the husband of the de-facto complainant/Subramani was the aggressor who had come to the place of the petitioner and had assaulted one Venkatesan and his wife, Vendamirtham with knife and when it was prevented by the petitioner and his wife, the said Subramani has also assaulted them and due to which, the Vendamirtham died on the spot and all others were sustained injuries and they were admitted in the hospital, for which a case in Crime No.148 of 2022



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was registered for the offence under Sections 307 & 302 IPC. He would further submit that during the occurrence, as a right of private defence, the petitioner has also attacked the the husband of the de-facto complainant, due to which, he also died. He would further submit that since, the petitioner was admitted in the hospital, he was arrested only on 20.09.2022 after his discharge. He would further submit that the incident had happened at the spur of the moment and the petitioner has no intention or motive to commit murder of the victim and during the fight, the petitioner has attacked the de-facto complainant's husband only as a private defence. He would also state that the petitioner is still undergoing treatment and there is no bad antecedents on the petitioner and hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the Respondent would submit that it is a case and a case in counter. He would further submit that the de-facto complainant's husband and the petitioner had attacked each other and due to which two cases have been registered based on the complaints given by one Venkatesan and one Kalaiselvi in Crime



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No.148 of 2022 & 149 of 2022 respectively and the deceased Subramani is an accused in Crime No.148 of 2022. He would also submit that investigation is pending in this case and hence, he oppose 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.

6. Taking into consideration the facts and the submissions made by the learned Counsel for the petitioner, this Court is inclined to grant bail to the petitioner.

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, Cheyyar**, and on further conditions that:



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[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 report before the respondent police 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]**;



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

14.10.2022

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To

1. The Judicial Magistrate,
Cheyyar.
2. The Inspector of Police,
Brammadesam Police Station,
Thiruvannamalai District.
3. The Central Jail, Vellore.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.

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