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Crl.OP.No.25366 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.OP.No.25366 of 2022

R.Harsith

..Petitioner

Vs.

State Represented by
The Inspector of Police,
B1, Ooty Town Central Police Station,
Ootacamund, The Nilgiris
(Cr.No.222 of 2022)

..Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail concerned in Cr.No.222 of 2022 on the file of the respondent police.

For Petitioner : Mr.K.Balasubramaniam

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 09.10.2022 for the offences punishable under Section 304(ii) IPC in Crime



Crl.OP.No.25366 of 2022

No.222 of 2022, seeks bail.

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2. The case of the prosecution as per the defacto complainant one Manikandan is that he along with ten others were engaged by the petitioner, who is an engineer, for doing construction of boundary wall. While being so, on 09.10.2022, when the construction work was going on, the labourers informed the petitioner that there was a possibility of landslide and they requested to stop the work. Whereas, the petitioner asked the defacto complainant and others to continue the work. Due to which, there was a landslide and two other employees namely one Settu and Vellu were covered under the debris and they passed away in the land. Thereby, he requested the respondent to take action against the petitioner for the negligent activity. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is the contractor, who was engaged by the owner of the property to do the work. He would submit that on the relevant point of time, he was not present at the scene of occurrence and the alleged occurrence is only due to the bad weather and the said incident happened out of the hands of the petitioner. He would further submit that already a compensation amount of Rs.1,00,000/-



Crl.OP.No.25366 of 2022

has been paid to each of the victims and he admits that the said incident was an accident and he had not done any act intentionally. He would further submit that the petitioner is only aged about 26 years, who has started a contract work very recently. However, without prejudice to his rights, the petitioner had agreed to offer 2.25 lakhs to the legal heirs of each of the victims. Since, the petitioner had already paid a sum of Rs.1,00,000/- to each of the victims, he was unable to pay the balance amount. Therefore, he was arrested by the respondent police. However, on instructions, he would further submit that the petitioner, without prejudice to his rights and contentions is ready and willing to deposit a sum of Rs.2,50,000/- to the credit of Cr.No.222 of 2022 and the petitioner has no objection in the amount of Rs.1,25,000/- paid to the legal heirs of each of the victims.

4. The learned Government Advocate (Crl.Side) would submit that the petitioner has conducted the work in a negotiable manner, which resulted in landslide and two victims have died in the said occurrence by submerging in the sand. He would further submit that the investigation is pending and he opposed for grant of bail to the petitioner.

5. Considering the facts and circumstances of the case and taking into



CrI.OP.No.25366 of 2022

account that the petitioner had already paid a sum of Rs.1,00,000/- to each of the victims and he is ready and willing to pay a further sum of Rs.1,25,000/- to the legal heirs of each of the deceased and considering the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner.

6. Accordingly, the petitioner is ordered to be released on bail on condition to deposit a sum of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand Only) to the credit of Crime No.222 of 2022 and on such deposit, 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, for a like sum to the satisfaction of the learned Judicial Magistrate, Ooty 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 file the proof of payment of Rs.1,00,000/- paid to the victims on the time of furnishing sureties and deposit a sum of Rs.2,50,000/- to the credit of the Cr.No.222 of 2022. On such receipt, the concerned Magistrate shall disburse the said sum to the legal heirs of



CrI.OP.No.25366 of 2022

each of the deceased.

[c] the petitioner shall report before the respondent Police daily at 10.30 a.m., until further orders;

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

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[f] 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];***

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

19.10.2022

Anu

To

- 1.The Judicial Magistrate, Ooty.
- 2.The Inspector of Police,
B1, Ooty Town Central Police Station,
Ootacamund, The Nilgiris

A.D.JAGADISH CHANDIRA, J.
Anu



Crl.OP.No.25366 of 2022

3. The Sub Jail,
Ooty.

4. The Public Prosecutor,
High Court of Madras.

Crl.O.P.No.25366 of 2022

19.10.2022