

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

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THE HON'BLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.26411 of 2022

1. Rajkumar

2. Saravanan

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
Jalakandapuram Police Station,
Salem District.

(Crime No.238 of 2022)

... Respondent

PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioners on bail in Crime No.238 of 2022 pending
on the file of the respondent.

For Petitioners : Mr.K.Nagarajan

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

ORDER

The petitioners, who were arrested and remanded to judicial custody on 19.09.2022, for the offences punishable under Sections 448, 342, 294(b), 323, 324 & 302 IPC, in Crime No.238 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner along with the other accused, due to the family dispute on account of the partition of land, have abused the de-facto complainant's husband in an abusive language and assaulted him and committed murder of him. Hence the case.

3. The contention of the learned counsel appearing for the petitioners is that the petitioners (A1 & A2), who are the sons through the first wife of the victim/deceased, are living with their mother separately and the victim was living separately with his second wife/de-facto complainant. He further submitted that there was some dispute with regard to the repayment of loan, in which the petitioners have paid a 75% of the loan

amount and the victim has to pay a sum of Rs.6,000 to his credit, but he failed to do so and when it was questioned by the petitioners, there aroused a quarrel and scuffle between them and in the heat of passion, this incident has taken place. He also submitted that only the petitioners have taken the victim to the hospital and it would prove that there is no intention on the part of the petitioners to commit murder of their father. He further submitted that the petitioners are in prison from 19.09.2022. Hence, he seeks for grant of bail to the petitioners.

4. The learned Government Advocate (Crl. Side) appearing for the respondent submitted that the petitioners are the sons of the first wife of the deceased and there was a dispute between them towards settling the loan amount, which the deceased failed to repay. He further submitted that during the quarrel the deceased had abused A3, wife of A1 and when it was questioned by A1 there was scuffle between them and the accused have assaulted the deceased with deadly weapon and caused grievous injuries on him. He fairly submitted that the accused have taken the injured to the hospital for treatment, but unfortunately, the Doctor informed that he was brought dead. Hence, he opposed for grant of bail to the petitioners.

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

6. Considering the facts and circumstances of the case that prior to the fight there was a wordy quarrel and in a heat of passion, the incident had happened and finding that the petitioners have taken the deceased to the hospital for treatment, this Court is inclined to grant bail to the petitioners with certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail on their executing a separate bond for a sum of **Rs.10,000/- (Rupees Ten thousand only) each** with **two sureties**, each for a like sum to the satisfaction of the **learned Judicial Magistrate No.II, Mettur**, 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 petitioners shall report before the respondent police as and when required for interrogation.

[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.

08.11.2022

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To

1. The Judicial Magistrate II, Mettur.
2. The Inspector of Police,
Jalakandapuram Police Station,
Salem District.
3. The Central Prison,
Salem.

4. The Public Prosecutor,
High Court of Madras.

M.NIRMAL KUMAR, J.

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