



Crl.O.P.No.26764 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2022

CORAM

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

Crl.O.P.No.26764 of 2022

Kamaraj

... Petitioner

Vs.

State rep. by,
The Inspector of Police,
Thoppur Police Station,
Dharmapuri District.

(Crime No.187 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in connection with Crime No.187 of
2022 on the file of the respondent Police.

For Petitioner : Mr.S.Chinnasamy

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



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ORDER

The petitioner, who was surrendered and remanded to judicial custody on 17.08.2022, for the offences punishable under Sections 427, 294(b), 324 & 307 of IPC @ 427, 294(b), 302 of IPC, in Crime No.187 of 2022, on the file of the respondent police, seek bail.

2. The case of the prosecution is that on account of land dispute, the petitioner along with the other accused had committed murder of the Saravanan by attacking him with reaper sticks. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and a complaint has been given only based on suspicion as there was previous enmity between the petitioner and other accused and the defacto complainant's husband on account of property dispute. He would also submit that even as per the complaint, the de-facto complainant is only a hearsay witness to the occurrence. He would further submit that initially a case was registered for the offence punishable under Sections 427, 294(b), 324 & 307 of IPC and since, the victim died on the



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next day, the case has been altered to one under Sections 427, 294(b), 302 of IPC. He would also state that there is no previous case as against the petitioner and he is in custody from 17.08.2022. He would also submit that the accused 1 and 2 have been granted bail by this Court in Crl.O.PNo.25557 of 2022 dated 19.10.2022 and 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 is arrayed as A3 in this case. He would further submit that the de-facto complainant is the wife of the deceased and there was previous enmity between the de-facto complainant's husband and the accused, on account of a property dispute. While so, on 04.08.2022, the accused had waylaid the deceased and assaulted him resulting in him sustaining injuries and he was taken to the hospital and where he succumbed to injuries on the next day. He would further submit that the investigation is pending. Hence, he vehemently opposed to grant bail to the petitioner.



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5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record including the first information report.

6. Taking into consideration the facts and circumstances of the case and the submission made by the learned counsel and also considering the period of incarceration undergone by 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 No-II, Dharmapuri**, 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 stay at Sivagangai and



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report before the Inspector of Police, Town Police Station, Sivagangai, 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 Judicial Magistrate No.II,
Dharmapuri.
2. The Inspector of Police,
Thoppur Police Station,
Dharmapuri District.
3. The District Jail,
Dharmapuri.
4. The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai District.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA., J.

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