



WEB COPY



CrI.O.P.No.28489 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2022

CORAM

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

CrI.O.P.No.28489 of 2022

Madesh

... Petitioner

Vs.

The State rep. by
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.,
pleaded to enlarge the petitioner on bail in Crime No.187/2022 on the file of
the Inspector of Police, Thoppur Police Station, Dharmapuri District.

For Petitioner : Mr.M.Selvam

For Respondent : Mr.C.E.Pratap
Government Advocate (CrI.side)



Crl.O.P.No.28489 of 2022

WEB COPY

ORDER

The petitioner, who was arrested and remanded to judicial custody on 08.10.2022 for the offences punishable under Sections 427, 294(b), 324 and 307 of IPC @ 427, 294(b) and 302 of IPC in Crime No.187 of 2022 on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that due to previous enmity on account of path way dispute, while the *de-facto* complainant's husband was going on his car on 04.08.2022, at about 2.45 p.m., the petitioner along with other accused waylaid the *de-facto* complainant's husband, assaulted him with reaper stick and pelted stones and caused damages to the wind shield of the *de-facto* complainant's car. The victim, who sustained injuries was taken to the hospital and based on the complaint given by the *de-facto* complainant, the case was initially registered in Crime No.187 of 2022 for the offences under Sections 427, 294(b), 324 and 307 of IPC. Later the victim, who was in the hospital succumbed to the injuries on 05.08.2022 and thereafter, the case was altered to offences under Sections 427, 294(b) and 302 of IPC.



Crl.O.P.No.28489 of 2022

WEB COPY

3. The learned Counsel for the petitioner would submit that petitioner is an innocent person. Further, the *de-facto* complainant is not an eye witness to the occurrence and that she is stated to have given a complaint based on the information given by her daughter. He would submit that the petitioner's name does not find place in the First Information Report and he has been roped in this case as A9 based on the confession of the other accused. Even as per the prosecution, the allegation against the petitioner is that he has pelted stones and damaged the wind shield of the *de-facto* complainant's car. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.side) appearing for the respondent would submit that due to previous enmity, the accused joined together and waylaid the *de-facto* complainant's husband while he was travelling in his car and assaulted with reaper sticks resulting in him sustaining injuries, later succumbed to the injuries in the hospital. He would further submit that the allegation as against the petitioner is that he has pelted stones and caused damages to the wind shield of the car. However, he opposed for grant of bail to the petitioner.



Crl.O.P.No.28489 of 2022

WEB COPY

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the respondent and perused the materials available on record.

6. Taking into consideration the facts and circumstances of the case and the period of incarceration and also the allegation as against 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 **learned Judicial Magistrate – 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;



CrI.O.P.No.28489 of 2022

[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]*;

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

21.11.2022

mpl



WEB COPY



Crl.O.P.No.28489 of 2022

A.D.JAGADISH CHANDIRA.,J.

mpl

To

1. The Judicial Magistrate – II,
Dharmapuri.
2. The Inspector of Police,
Thoppur Police Station,
Dharmapuri District.
3. Central – Jail,
Salem.
4. The Public Prosecutor,
High Court of Madras.

Crl.O.P.No.28489 of 2022

21.11.2022