



Crl.O.P.Nos.28826 & 28827 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2022

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

Crl.O.P.Nos.28826 & 28827 of 2022

1. Duraisamy

2. Subramaniyan

... Petitioners in Crl.O.P.No.28826 of 2022

1. Alamelu

2. Valliyammal

... Petitioners in Crl.O.P.No.28827 of 2022

Vs.

The State represented by,
The Inspector of Police,
Keezhukuppam Police Station.
Kallakurichi.

(Crime No.166/2022).

... Respondent in both Crl.O.P.Nos.

COMMON PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., pleased to enlarge the petitioners on bail in connection with the Crime No.166 of 2022, pending investigation on the file of the respondent Police.



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In both Crl.O.P.Nos.,

For Petitioners : Mr.D.Prasanth

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

COMMON ORDER

The petitioner, who were arrested and remanded to judicial custody on 20.10.2022, for the offences punishable under Sections 147, 148, 294(b), 323, 324, 506(ii) & 307 IPC @ 302, 147, 148, 294(b), 323, 324, 506(ii) & 307 IPC, in Crime No.166 of 2022, on the file of the respondent police, seek bail.

2. The case of the prosecution as per the *de-facto* complainant Ramasamy is that he has two sons and one daughter and he was living separately, whereas, his wife (A4) was living with his elder son (A1) for about two years. While so, on 18.10.2022, due to the family dispute on account of the partition of property, there was a quarrel between his daughter-in-law Alamelu (A3) and his younger son Venkatesan (deceased/victim), during such time, she abused the *de-facto* complainant



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and the victim in a filthy language and the accused have assaulted them with Iron pipe and sickle, due to which, they sustained injuries. The injured were taken to hospital, whereas, after 3 days, the victim had succumbed to injuries without responding to the treatment. Hence the case.

3. The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they are the family members and close relatives of the *de-facto* complainant. He further submitted that there was a dispute with regard to the partition of property and on 18.10.2022, there was a quarrel between them, during such time the incident had happened. He further stated that there is no intention or motive on the part of the petitioners to commit murder of the deceased and it has happened unfortunately during the quarrel. He also stated that the *de-facto* complainant and party are the aggressors, who have assaulted the petitioners and the incident had happened while exercising a right of private defence, whereas the petitioners has also sustained injuries and based on the complaint given by A1, a case in Crime No.167 of 2022 has been registered against the *de-facto* complainant and the deceased. He would submit that the petitioners are in custody from 20.10.2022 and they are ready to abide by any stringent



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conditions that may be imposed by this Court. Hence, he prays for grant of bail to the petitioners.

4. The Government Advocate (Crl.Side) appearing for the respondent police submitted that due to the existing property dispute on account of the partition of property, on 18.10.2022, the accused have assaulted the *de-facto* complainant and the deceased with iron pipe and sickle, due to which, they sustained grievous injuries and later, the victim died in the hospital after three days. He also stated that it is the case and a case in counter. Hence, he vehemently opposed to grant bail to the petitioner.

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

6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel and also considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.



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7. Accordingly, the petitioners are ordered to be released on bail on their executing a separate bond for a sum of **Rs.25,000/- (Rupees Twenty Five thousand only)**each with **two sureties**, each for a like sum to the satisfaction of the **learned Judicial Magistrate - II, Kallakurichi**, 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 stay at Palani and report before the Inspector of Police, Palani Town Police Station, everyday at 10.30a.m., until further orders;

[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



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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.

24.11.2022

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To

1. The Judicial Magistrate - II,
Kallakurichi.
2. The Inspector of Police,
Keezhukuppam Police Station.
Kallakurichi District.
3. The Central Prison,
Cuddalore.
4. The Central Prison for women,
Cuddalore.
5. The Inspector of Police,
Palani Town Police Station,
Palani.
6. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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