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Crl.O.P.Nos.28980 & 29059 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2022

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

Crl.O.P.Nos.28980 & 29059 of 2022

1. Varadhan

2. Murugesan

... Petitioners in Crl.O.P.No.28980 of 2022

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... Petitioner in Crl.O.P.No.29059 of 2022

Vs.

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

(Crime No.86/2022).

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

PRAYER in Crl.O.P.No.28980 of 2022: Criminal Original Petition filed under Section 439 of Cr.P.C., pleaded to enlarge the petitioners on bail in connection with the Crime No.86 of 2022 pending investigation on the file of the respondent Police.

PRAYER in Crl.O.P.No.29059 of 2022: Criminal Original Petition filed under Section 439 of Cr.P.C., pleaded to enlarge the petitioner on bail in connection with the Crime No.86 of 2022 pending investigation on the file of the respondent Police.



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In Both Crl.O.P.Nos.,

For Petitioners : Mr.M.Eliyaraja

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

COMMON ORDER

The petitioners, who were arrested and remanded to judicial custody on 28.10.2022 for the alleged offences under Sections 147, 148, 448, 294(b), 380, 379, 302 and 120B of IPC r/w. Section 3(1) of Prevention of Damage to Public Property Act 1984, in Crime No.86 of 2022 on the file of the respondent police, seek bail.

2. The case of the prosecution is that due to the existing civil dispute, the petitioners along with the other accused have entered into the property of the de-facto complainant and abused him in a filthy language and threatened him and had also caused destruction of property. As a sequel to the same, the sister of the de-facto complainant is said to have been attacked by the accused persons with iron rod and pipe, due to which she sustained grievous injuries and she died, without responding to the treatment. Hence the case.



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3. The learned counsel appearing for the petitioners submitted that the petitioners are arrayed as A5, A6 and A8 respectively in this case. He further submitted that the allegation as against the petitioners is that they have conspired with the other accused and they were present at the scene of occurrence and the further allegation is that they have caused damage to the vehicle and the crops in the vicinity. He also stated that the petitioners have not made any assault on the victim. He further submitted that the petitioners are in custody from 28.10.2022, hence, he prayed to grant bail to the petitioners.

4. The Government Advocate (Crl.Side) appearing for the respondent police submitted that on account of the civil dispute, the petitioners along with the other accused have entered into the de-facto complainant's property and abused him in a filthy language and assaulted the de-facto complainant's sister with deadly weapons, due to which, she suffered grievous injuries and died without responding to the treatment. He further submitted that the petitioners in Crl.O.P.No.28980 of 2022 are arrayed as A5 & A6 and the petitioner in Crl.O.P.No.29059 of 2022 is



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arrayed as A8. Hence, he vehemently opposed to grant bail to the petitioners and prayed for dismissal of these bail petitions.

5. At this juncture, the learned counsel for the petitioners submitted that the co-accused in this case have been granted bail by this Court in Crl.O.P.Nos.11806, 11855 and 12198 of 2022 vide order dated 23.05.2022 and also stated that the petitioners are ready to abide by any stringent conditions that may be imposed by this Court. Hence, he prayed to grant bail to the petitioners.

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

7. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel and taking note of the fact that the co-accused have been granted bail by this Court and also considering the nature of allegation as against the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.



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8. 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, Attur, Salem** 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 Trichy and report before the Inspector of Police, Trichy Town Hall Police Station, everyday at 10.30 a.m. and 5.30p.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.

25.11.2022

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To

1. The Judicial Magistrate - II,
Attur, Salem.
2. The Inspector of Police,
Thalaivasal Police Station,
Salem District.
3. The Central Jail,
Salem.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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