



Crl.O.P.No.29295 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2022

CORAM

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

Crl.O.P.No.29295 of 2022

K.Senthilnathan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Thirumuruganpoondi Police Station,
Tiruppur
Crime No.769 of 2022

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in Crime No.769 of 2022 on the file
of the respondent police.

For Petitioner : Mr.R.Kannan

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 08.11.2022 for the offences punishable under Section 174 of Cr.P.C in Crime No.769 of 2022 later alter to one Section 304(2), 109 of IPC and Section 75 of JJ Act, 2015 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner is running a trust in the name and style of Sri Vivekananda Sevalayam. While so on 06.10.2022, few children in the petitioner's trust had vomited and fainted due to food poison. When they were taken the children to the hospital, out of 15 children, three children were died without responding to the treatment. Initially, the case has been registered under Section 184 of Cr.P.C., and thereafter, altered into under Section 304(2), 109 of IPC and Section 75 of JJ Act, 2015. Hence, the case.

3. The learned Senior counsel appearing for the petitioner would submit that the petitioner is the Managing trustee of Sri Vivekananda Sevalayam and he is a bachelor, who has sacrificed his life to do social work



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for the poor and downtrodden. Out of his funds & donations, he started this Sevalayam in the year of 2007 and he had been running this Sevalayam for the past 15 years without any blemish. He would submit that during the festival times, some sponsors used to provide food to the children. Likewise, at the time of occurrence, some sponsors have provided food to the children and at the time of occurrence, the petitioner was at Calcutta. He would submit that immediately after coming to know about the incident, the petitioner had rushed back from Calcutta to Tiruppur, where, he was arrested by the police. He would submit that out of three deceased, one deceased is fully orphan and the petitioner is the guardian for the child and other two deceased have parents, who are now in jail. However, without prejudice, the petitioner is ready to deposit a sum of Rs. 5,00,000/- credit of Crime No.769 of 2022, out of which, Rs.2.5 lakhs can be disbursed to the parents of the two other deceased children as exgratia. Therefore, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner is the Managing Trustee of Sri



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Vivekananda Sevalayam. There are 15 children in the trust and on 06.10.2022, they have given stale food to the victim children and they got food poisoning, due to which, 3 children died without responding to the treatment. Hence, he vehemently opposed to grant bail to the petitioner.

5. Heard both the learned counsel and perused the materials available on record including the First Information Report.

6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel and also the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner.

7. Accordingly, the petitioner shall deposit a sum of **Rs.5,00,000/-** (Rupees Five Lakhs only) **to the credit** of the Crime No.769 of 2022 and out of Rs.5,00,000/-(Rupees Five Lakhs only), Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand) each shall be disbursed to the parents of the each deceased and on such deposit, the petitioner is ordered to be released on bail



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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, Avinashi** 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 report before the respondent police every day at 10.30.a.m., for a period of two weeks and thereafter every Saturday at 10.30 am until further orders.

[c] the learned Magistrate shall summon the parents of the deceased children (who have parents) and disburse Rs.2,50,000/- each to the parents of the deceased children, after due verification. Till such time, the amount shall be deposited in any of the Nationalised Bank in a Interest bearing Fixed Deposit Scheme.

[d] the petitioner shall not abscond either during investigation or trial;

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial;



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[f] On breach of any of the aforesaid conditions,

A.D.JAGADISH CHANDIRA., J.

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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]**;

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

28.11.2022

Shk
To

1. The Judicial Magistrate,
Avinashi
2. The Inspector of Police,
Thirumuruganpoondi Police Station,
Tiruppur
3. Central Prison,
Coimbatore.
4. The Public Prosecutor,
High Court of Madras.

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