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CrI.O.P.No.29437 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

CORAM

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

CrI.O.P.No.29437 of 2022

Surya @ Konavai Surya

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Namakkal Police Station,
Namakkal District.

(Crime No.657/2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in connection with the Crime No.657
of 2022 pending investigation on the file of the respondent Police.

For Petitioner : Mr.W.Camyles Gandhi

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 26.10.2022 for the offences punishable under Sections 302 IPC @ 120(b), 323, 302, 212 IPC, in Crime No.657 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the *de-facto* complainant Jeeva is that due to the previous enmity, the accused have conspired together and committed murder of the son of the de-facto complainant by assaulting him with stones and wooden logs. Hence the case.

3. The learned counsel appearing for the petitioner submitted that the petitioner, who is arrayed as A5 in this case, is an innocent person, aged about 24 years and he has been arrested only based on the confession statement recorded from the other accused that the petitioner was also present at the scene of occurrence. He further submitted that the name of the petitioner does not find place in the First Information Report. He also submitted that the petitioner has not made any assault on the victim and he is



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in custody from 26.10.2022 and he is ready to abide by any stringent conditions that may be imposed by this Court. Hence, he prayed to grant bail to the petitioner.

4. The Government Advocate (Crl.Side) appearing for the respondent police submitted that due to the previous enmity the accused who belong to the rival group had attacked the de-facto complainant's son with stones and wooden logs, due to which he sustained grievous injuries and unfortunately, he died on the way to the hospital. He also submitted that the petitioner herein was present at the scene of occurrence and had also instigated the other accused. He also stated that there is no previous case as against the petitioner, however, he opposed to grant bail to the petitioner.

5. Heard the learned counsel for the petitioner 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 that the petitioner has



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not made any assault on the victim and also considering the fact that the name of the petitioner does not find place in the FIR, this Court is inclined to grant bail to the petitioner with certain conditions.

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-I, Namakkal District** 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 Chennai and report before the Inspector of Police, Flower Bazaar Police Station, 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;



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[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.

30.11.2022

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To

1. The Judicial Magistrate-I,
Namakkal.
2. The Inspector of Police,
Namakkal Police Station,
Namakkal District.
3. The Central Prison,
Salem.
4. The Inspector of Police,
Flower Bazaar Police Station,
Chennai.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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