



Crl.O.P.No.31183 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.12.2022

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

Crl.O.P.No.31183 of 2022

1. Mathivanan,
S/o. Chellappan

2. Madhavan,
S/o. Mathivanan

.. Petitioners

Vs.

State represented by
The Inspector of Police,
N-4 Fishing Harbour Police Station,
Washermenpet, Chennai.
(Crime No.300 of 2022)

.. Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioners on bail in Crime No.300 of 2022 on the file of respondent police.

For Petitioners : Mr.D.Padmanabhan

For Respondent : Mr.S.Vinoth Kumar
Govt. Advocate (Crl. Side)



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ORDER

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The petitioners, who were arrested and remanded to judicial custody on 09.11.2022 for the alleged offence under Section 174 of Cr.P.C. and subsequently altered into Sec.302 I.P.C. in Crime No.300 of 2022 on the file of the respondent police, seek bail.

2. The case of the prosecution is that the 1st petitioner is the father and 2nd petitioner is brother of deceased. Since the victim caused ruckus in house after consuming alcohol, these petitioners strangled the victim using nylon rope, due to which, he died. Initially, the case was registered under Sec.174 Cr.P.C. and during investigation, it came to light that these petitioners murdered the deceased and thereafter, the section was altered into Sec.302 I.P.C. Hence, the complaint.

3. The learned counsel for the petitioners submitted that on the date of occurrence, the deceased came in an inebriated condition and picked quarrel with the family members, thereby there was a quarrel, due to which, deceased attacked her badly, which was questioned by the petitioners. He would submit that on the next day, they went to their



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respective work and after hearing the suspicious death of deceased, the petitioners went to the spot, but the respondent police without hearing their submissions, arrested them. He would submit that they have not at all committed any offence as alleged by the respondent police and they are no way connected with the offence. He would submit that they have been falsely implicated in this case for statistical purpose. He would further submit that the investigation is almost completed and that the petitioners have been suffering incarceration for more than 36 days from 09.11.2022. Hence, he prayed to grant bail to the petitioners.

4. The learned Government Advocate (Crl. Side) appearing for respondent would submit that since the victim causing ruckus in the house after consumption of alcohol, these petitioners have strangled the victim using nylon rope, due to which he died. He would also submit that the investigation is almost completed and final report was filed. He would submit that if they are released on bail, they will tamper the witnesses and hamper the investigation. Hence, he vehemently opposed to grant bail to the petitioners.



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5. Considering the fact that the investigation is almost completed and final report was filed and considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

6. Accordingly, the petitioners are ordered to be released on bail on executing their separate bonds for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, for a like sum to the satisfaction of the *learned XVI Metropolitan Magistrate, George Town, Chennai*, 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 appear before the respondent police at 10.30 a.m. daily for the period of two months.

(c) the 2nd petitioner shall not tamper with



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evidence or witness either during investigation or trial;

(d) the 2nd petitioner shall not abscond 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 2nd petitioner in accordance with law as if the conditions have been imposed and the 2nd 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]*; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

16.12.2022

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To

1. The XVI Metropolitan Magistrate, George Town, Chennai.
2. Inspector of Police,
N-4 Fishing Harbour Police Station, Washermenpet, Chennai.
3. The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras, Chennai.



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T.V. THAMILSELVI, J.

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