



Crl.O.P.No.434 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.01.2023

CORAM :

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

Crl.O.P.No.434 of 2023

Saritha,
W/o.Danapal

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
Sankari Police Station,
Salem Dt.
(Crime No.463 of 2022)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.463 of 2022 pending on the file of respondent police.

For Petitioners : Mr.A.Saravanan

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 21.11.2022 for the alleged offence under Section 302 I.P.C. in Crime No.463 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that one Dhanapal, now deceased is the son of defacto complainant and he fell in love with the petitioner and they got married and they are having two children. Due to a family dispute between them, they were living separately and in this regard, on one occasion, A1, brother of petitioner assaulted the defacto complainant and her husband demanded to return his two wheeler vehicle's RC book, school certificates and ATM card, but she did not return the same. While so, on 20.11.2022 at about 09.00 p.m. her husband approached one Palaniappan and asked to settle the issue between him and his wife, the petitioner herein. At that time, the petitioner and A1 assaulted her husband with hands indiscriminately, wherein she instigated A1 to kill her husband and then A1 pushed down him and assaulted him with stone, due to which, he became unconscious and when he was taken to hospital,



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the doctor declared him as dead. Hence, the complaint.

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3. The learned counsel for the petitioner submitted that this is the second petition seeking for bail before this court. He would submit that she has not participated in the crime, in fact, the petitioner's brother pushed the deceased and fallen down and died. He would submit that she did not touch the deceased at the time of occurrence and only due to sudden provocation of her brother, which is not intentional. He would also submit that for the past 2 years, she was in her parental house, so it is not possible to take RC book of deceased bike. So, it is a created story in the F.I.R. and in fact, when the deceased attacked her, her brother tried to stop the fight, during the said course, the occurrence happened. He would submit that she is sole bread winner of the family and children are in the custody of her parents. He would submit that there is no specific overtact attributed against the petitioner and she has not at all committed any offence as alleged by the respondent police and she is no way connected with the occurrence. He would further submit that the investigation is almost completed and that the petitioner has been suffering incarceration for more than 52 days from 21.11.2022. Hence, he prayed to grant bail to the petitioner.



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4. The learned Government Advocate (Crl. Side) appearing for respondent would submit that due to a family dispute, the petitioner and A1 have assaulted the deceased with hands and only at the instigation of petitioner, A1 assaulted him with stone, due to which he died on the way to hospital. He would submit that this is the second petition seeking for bail. He would also submit that if she is released on bail, she will tamper the witnesses and hamper the investigation and the investigation is at the preliminary stage. Hence, he vehemently opposed to grant bail to the petitioner.

5. Considering the above facts and circumstances, and also considering the fact that there is no previous case against the petitioner and co-accused were released on bail and also the fact that due to family dispute, there was a wordy quarrel, in which the alleged occurrence happened and considering the fact that the investigation almost completed and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner subject



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to the following conditions:

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6. Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each, for a like sum to the satisfaction of the **learned Judicial Magistrate No.1, Sankari**, and on further conditions that:

(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned 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 on every Wednesday and Saturday at 10.30 a.m. for the period of three months ;

(c) the petitioner shall not commit any offences of similar nature;

(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;

(f) on breach of any of the aforesaid conditions, the



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learned Judicial 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 absconds, a fresh FIR can be registered under Section 229A IPC.

12.01.2023

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To

1. The Judicial Magistrate No.1, Sankari.
2. Inspector of Police,
Sankari Police Station, Salem Dt.
3. The Superintendent of Prison,
Central Prison, Salem.
4. The Public Prosecutor,
High Court of Madras, Chennai.



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T.V. THAMILSELVI, J.

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