



CrI.O.P.No.717 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

CrI.O.P.No.717 of 2023

1. A. Mahaboob Basha @ Mahaboob,
S/o. Amanullah

2. Mansoor Ali Khan,
S/o. Chanbasha

3. Mohamed Imran,
S/o. Mohammed Rafeeq

4. Syed Eliyas,
S/o. Syed Yousaf

5 Ahamed @ Hanssain,
S/o. Syed Munawar

6. Mubarak,
S/o. Chanbasa

7. Syed Mohammed,
S/o. Iqbal

... Petitioners

Vs.



Crl.O.P.No.717 of 2023

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The State rep. by
The Inspector of Police,
Mathigiri Police Station,
Krishnagiri Dt.
(Crime No.273 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.273 of 2022 pending on the file of respondent police.

For Petitioners : Mr.A.Balamurugan

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

ORDER

The petitioners 1 to 6, who were arrested and remanded to judicial custody on 22.11.2022 and 7th petitioner, who was arrested and remanded to judicial custody on 17.11.2022 for the alleged offence under Sections 147, 148, 302 and 307 I.P.C. in Crime No.273 of 2022 on the file of the respondent police, seeks bail.



CrI.O.P.No.717 of 2023

WEB COPY

2. The case of the prosecution is that two months prior to the occurrence, the deceased and his friends celebrated birthday function of their friends at Amman Park, Ram Nagar, at that time, A1 went there and created problem with them, due to which, both developed vengeance against each other. In continuation, on 14.11.2022 at about 16.00 hrs., the deceased and his friends were joined together and went to Thippu Sulthan community hall for attending birthday function of one Palaniyapa, the petitioners along with other accused joined together and attacked defacto complainant's son and his friends with knife and iron rod, thereby both were sustained grievous injury and in which, son of defacto complainant succumbed to injuries and other persons were under treatment. Hence, the complaint.

3. The learned counsel for the petitioners submitted that there is no specific overtact attributed against the petitioners. 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 occurrence. He



Crl.O.P.No.717 of 2023

WEB COPY

would submit that earlier, one of the accused attacked by the defacto complainant's son, and he gave a complaint, which was registered in Crime No.274 of 2022, as a counterblast, the present complaint has been filed. He would further submit that the investigation is almost completed and that the petitioners have been suffering incarceration for more than two months from 22.11.2022 and 17.11.2022 respectively. Hence, he prayed to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for respondent would submit that it is a case of murder, in which, the petitioners are arrayed as A1 to A6 and A9. He would submit that during birthday function, quarrel arose, thereby the petitioner along with other accused attacked deceased with knife and iron rod, due to which, he succumbed to injuries. He would submit that now injured accused was discharged from the hospital and it is a case in counter. He would also submit that if they are released on bail, they would tamper the witnesses and hamper the investigation and the investigation is almost completed. Hence, he vehemently opposed to grant bail to the petitioners.



Crl.O.P.No.717 of 2023

WEB COPY

5. Considering the above facts and circumstances, and also considering the fact that it is a case in counter, and co-accused was released on bail and also the fact that during birthday function, there was a wordy quarrel, in which both groups attacked with each other, thereby the alleged occurrence happened and considering the fact that the investigation almost completed and also considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners subject to the following conditions:

6. Accordingly, the petitioners are 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.II, Hosur**, 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;



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CrI.O.P.No.717 of 2023

(b) the petitioners shall stay at Salem and report before the Town Police Station, Hasthampatti daily at 10.30 a.m. for the period of six weeks and thereafter, they shall appear before the respondent police on every Saturday at 10.30 a.m. for another 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 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.



CrI.O.P.No.717 of 2023

12.01.2023

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To

1. The Judicial Magistrate No.II, Hosur.
2. Inspector of Police,
Mathigiri Police Station, Krishnagiri Dt.
3. The Superintendent of Prison,
District Prison, Dharmapuri.
4. The Public Prosecutor,
High Court of Madras, Chennai.



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Crl.O.P.No.717 of 2023

T.V. THAMILSELVI, J.

rpp

Crl.O.P.No. 717 of 2023



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CrI.O.P.No.717 of 2023

12.01.2023