



Crl.O.P.No.3048 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.02.2023

CORAM :

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

Crl.O.P.No.3048 of 2023

1. Durai Palanisamy,
S/o. Arumugham

2. Sounderrajan,
S/o. Natarajan

... Petitioners

Vs.

The State rep. by
The Inspector of Police,
Mangalam Police Station,
Tiruppur Dt.
(Crime No.2 of 2023)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.2 of 2023 pending on the file of respondent police.



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

ORDER

The petitioners, who were arrested and remanded to judicial custody on 02.01.2023 for the offence punishable under Section 302 of I.P.C. in Crime No.2 of 2023 on the file of the respondent police, seek bail.

2. The case of prosecution is that the defacto complainant is the elder brother of deceased, who is aged about 32 years and he is native of Arasakulam and he came down to the place of occurrence for his livelihood and working as a civil work mansion and staying nearby the land of petitioners. While being so, on 01.01.2023 around 05.00 a.m., deceased said to have went to petitioners' agricultural land to defecate in the open, at that time, the petitioners asked him why he came there and asked him whether he planned to steal the iron materials, for which, he replied that he came there to defecate, however, without hearing the same, on suspicion of theft, they alleged to attacked him with a stick,



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thereby he sustained serious injuries and died. Hence, the complaint was registered against the petitioner.

3. The learned counsel appearing for petitioners submitted that on suspicion of theft, the petitioners alleged to have attacked deceased with a stick only, however, while he attempted to escape from the scene of occurrence, he fell down, thereby he sustained head injury and died. So, the entire allegations against the petitioners is false, vindictive, wanton and they are no way connected with the offence. He would submit that they have not at all committed any of offence as alleged by the respondent police and they have been falsely implicated in this case and they will abide by any condition that may be imposed by this court. He would further submit that the investigation is almost completed and that the petitioners have been suffering incarceration for more than 49 days from 02.01.2023. Hence, he prayed to grant bail to the petitioners.

4. The learned Government Advocate (Crl. Side) appearing for respondent would submit that totally there are four accused involved in this case and all the accused were secured and the petitioners are arrayed



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as A1 and A2. He would submit that on the date of occurrence, deceased went to the petitioners' agricultural land to defecate, however, on suspicion of attempting to steal iron materials, the petitioners have attacked him with stick, thereby he sustained serious injuries and died. He would submit that no previous case pending against them. He would submit that if they are released on bail, he would tamper the witnesses and hamper the investigation and the investigation is almost completed. Hence, he vehemently opposed to grant bail to the petitioners.

5. Considering the above facts and circumstances, and also considering the fact that the investigation almost completed and also the fact that at the time of alleged occurrence, on suspicion of attempting to commit theft by the deceased, the petitioners have attacked him, thereby he sustained injuries and the said occurrence was happened and no previous case pending against them 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



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bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each, **in which one surety must be a blood surety** for a like sum to the satisfaction of the **learned Judicial Magistrate No.IV, Tiruppur**, 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 petitioners shall stay at Rameswaram and report before the Inspector of Police, Thangachimadam Police Station, 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 six weeks;

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

(d) the petitioners shall not abscond either during investigation or trial;

(e) the petitioners 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 petitioners in accordance with law



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as if the conditions have been imposed and the petitioners 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.

21.02.2023

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To

1. The Judicial Magistrate No.IV,
Tiruppur.
2. Inspector of Police,
Mangalam Police Station,
Tiruppur Dt.
3. The Superintendent of Prison,
District Jail, Tiruppur.
4. The Public Prosecutor,
High Court of Madras, Chennai.



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T.V. THAMILSELVI, J.

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