



Crl.O.P.No.3619 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.02.2023

CORAM :

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

Crl.O.P.No.3619 of 2023

Kirubakaran,
S/o.Selvaraj

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
Nagapattinam Town Police Station,
Nagapattinam.
(Crime No.371 of 2022)
Respondent

...

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.371 of 2022 pending on the file of respondent police.

For Petitioner : Mr.P.R.Natesa Jayaraman

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 09.12.2022 for the alleged offence under Sections 147, 148, 341, 307, 302 of I.P.C. in Crime No.371 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 08.12.2022 while the defacto complainant and the deceased were travelling in a motorcycle at 11.30 hrs., and they were passing near the entrance of Appa Tea Stall at the premises of Abirami Amman Ground, due to previous enmity, the petitioner along with other accused put a towel around the neck of deceased Sivapandi and dragged him towards the floor, due to which, all the three fell down along with motorcycle and at that time, other accused nearby at the spot assaulted deceased on his head, thereby he sustained serious injuries, as a result of which, he succumbed to death. When they attacked defacto complainant with aruval, he sustained a wound on his left forearm and thereafter they escaped from the scene of occurrence.



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Hence, the complaint lodged against the petitioner.

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3. The learned counsel for the petitioner submitted that this is the second petition seeking for bail. He would submit that his name is not found in the F.I.R. and on the confession of A3, his name was falsely included in this case. He would submit that there is no specific overtact attributed against the petitioner and he is an innocent person and he has not at all committed any offence as alleged by the respondent police. He would submit that merely the two wheeler of the petitioner was used by one of named accused, he was falsely roped as accused in this case. He would submit that he is nothing to do with the instant case and he is not even present in the scene of occurrence. He would submit that he 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 petitioner has been suffering incarceration from 09.12.2022. Hence, he prayed to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for respondent would submit that totally, there are 14 accused involved in



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this case and the petitioner is arrayed as A3. He would submit that while they were in jail, they have some motive and once they come out on bail, again they would commit the offence. He would submit that the petitioner only gave information about the movement of deceased to the other accused and he was present in the scene of occurrence. He would submit that there are 2 previous cases pending against him for an offence under Sec.379 of I.P.C. in Crime No.140 of 2018 and Sec.352 and 506(ii) of I.P.C. in Crime No.66 of 2021. He would also submit that if he is 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 petitioner.

5. Considering the above facts and circumstances, and against his overtact, the investigation is almost completed and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

6. Accordingly, the petitioner is ordered to be released on bail



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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.I, Nagapattinam**, 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 stay at Tirunelveli District and report before the Inspector of Police, Palayamkottai Police Station daily at 10.30 a.m. for the period of three months and thereafter, he shall report before the respondent police on every Sunday 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



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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.

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To

1. The Judicial Magistrate No.I, Nagapattinam.
2. Inspector of Police, Nagapattinam Town Police Station, Nagapattinam.
3. The Superintendent of Prison, District Jail, Nagapattinam.
4. The Public Prosecutor, High Court of Madras, Chennai.



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T.V. THAMILSELVI, J.

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