



Crl.O.P.No.3777 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.02.2023

CORAM :

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

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1. Karthick,
S/o. Srinivasan
2. Karthik @ Karthikeyan,
S/o. Irusagounder
3. Gokulraja,
S/o. Vasu

... Petitioners

Vs.

The State rep. by
The Inspector of Police,
Omalur Police Station,
Salem Dt.
(Crime No.3 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.3 of 2023 pending on the file of respondent police.



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For Petitioners : Mr.C.Ganesh Pandian
For Respondent : Mr.S.Vinoth Kumar,
Govt. Advocate (Crl.Side.)

ORDER

The petitioners, who were arrested and remanded to judicial custody on 01.01.2023 for the alleged offence under Sections 147, 148, 294(b), 323, 307, 506(ii) of I.P.C. and subsequently altered into Secs. 147, 148, 294(b), 323, 302 and 506(ii) of I.P.C. in Crime No.3 of 2023 on the file of the respondent police, seek bail.

2. The case of prosecution is that earlier, there was a wordy quarrel between the petitioners along with other accused and defacto complainant's son with regard to bursting of firecrackers during diwali festival and again, on 31.12.2022 around 11.00 p.m., when the defacto complainant's son and his friends were talking about preparation of new year celebration, there was a scuffle between them, thereby the petitioners along with other accused attacked his son with hands repeatedly and also assaulted with wooden log with intent to kill him and threatened him with dire consequences, resulting in which, he sustained



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serious injuries and admitted in hospital for treatment and subsequently he died. Hence, the complaint was registered against the petitioner.

3. The learned counsel appearing for petitioners submitted that the entire allegations against them 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 01.01.2023. 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 10 accused involved in this case and all are arrested and they were in judicial custody. He would submit that no previous case pending against the petitioners and they are arrayed as A2, A5 and A6. He would submit that on the date of occurrence, totally 10 accused have joined together and there was a



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wordy quarrel between them, thereby they attacked deceased, who is aged about 26 years, with deadly weapons as already there is a dispute with regard to bursting of crackers during diwali festival and he was admitted in hospital and subsequently he died and in the said occurrence, the petitioners also participated and attacked him. 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 as there was a wordy quarrel between the defacto complainant's son and petitioners and other accused, thereby they attacked the deceased with deadly weapons, due to which, the alleged occurrence happened and no previous case pending against them and the fact that the petitioners are aged about 19 to 20 years 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:



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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, **in which one surety must be a blood surety** for a like sum to the satisfaction of the **learned Judicial Magistrate, Omalur**, 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 Tiruvannamalai District and report before the Inspector of Police, Vettavalam Police Station daily at 10.30 a.m. for the period of two months;

(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 as if the conditions have been imposed and the petitioners



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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.

6. Further, as per FIR, with regard to bursting of crackers during diwali festival and also with regard to the New Year celebration, there was a wordy quarrel between the defacto complainant's son, who is aged about 26 years, and the accused persons, thereby, the petitioners along with other accused attacked him with deadly weapons, resulting in which, he sustained serious injuries and died and the petitioners have been charged with for the offences under Sections, 147, 148, 294(b), 323, 302, 506(ii) IPC. Due to the said occurrence, it is seen that the parents of the deceased lost their son. Hence, this Court recommends that it is a fit case to refer, **as per 357(A) (1)(2) and (6) of Victim Compensation Scheme**. The Legal Services Authority, Salem District, is hereby directed to deposit a sum of **Rs.1,00,000/- (Rupees one lakh only)** to the account of parents of the deceased as interim compensation based on the available scheme in the manner known to law within a



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period of three months from the date of receipt of copy of this order. The

parents of deceased are permitted to withdraw the amount.

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To

1. The Judicial Magistrate, Omalur.
2. Inspector of Police, Omalur Police Station,
Salem Dt.
3. The Superintendent of Prison,
Central Prison, Salem.
4. The Public Prosecutor,
High Court of Madras, Chennai.

Copy To

1. The Chairman
Legal Services Authority, Salem District
2. The Secretary
Legal Services Authority, Salem District
3. The Legal Services Authority, Salem Dt.

T.V. THAMILSELVI, J.



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