



Crl.O.P.No.4025 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.4025 of 2023

S.Nitheeshkanna @ Nitheesh,
S/o.Settu

... Petitioner

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 petitioner on bail in Crime No.3 of 2023 pending on the file of respondent police.

For Petitioner : Mr.B.Vasudevan

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 03.01.2023 for the alleged offence under Sections 147, 148, 294(b), 323, 307, 506(2) of I.P.C. and subsequently altered to Sec.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, seeks bail.

2. The case of prosecution is that on 13.12.2022 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 the petitioner along with other accused and defacto complainant's son, thereby the petitioner 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 serious injuries and admitted in hospital for treatment and subsequently he died. Hence, the complaint was registered against the petitioner.



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3. The learned counsel appearing for petitioner submitted that the entire allegations against him is false, vindictive, wanton and he is no way connected with the offence. He would submit that he has not at all committed any of offence as alleged by the respondent police and he has been falsely implicated in this case and he will abide by any condition that may be imposed by this court. He would further submit that the investigation is almost completed and co-accused were released on bail. He would submit that the petitioner has 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 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 petitioner and he is arrayed as A8. He would submit that on the date of occurrence, totally 10 accused have joined together and there was a wordy quarrel between them, thereby the petitioner along with other accused attacked deceased,



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who is aged about 26 years, with deadly weapons since there is a dispute with regard to new year celebration and he was admitted in hospital and subsequently he died and in the said occurrence, the petitioner also participated and attacked him. He would submit that the defacto complainant is father of deceased and he is an eye-witness to the occurrence. 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 petitioner and other accused, thereby they attacked the deceased with deadly weapons, due to which, the alleged occurrence happened and no previous case pending against him and the fact that the petitioner is aged about 23 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 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, **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 petitioner shall stay at Theni District and report before the Inspector of Police, Thevaram Police Station daily at 10.30 a.m. for the period of two months and thereafter, he shall report before the respondent police on every Sunday at 10.30 a.m. for another period of two 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;



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(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.

21.02.2023

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To

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



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T.V. THAMILSELVI, J.

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