



Crl.O.P.No.5153 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.03.2023

CORAM :

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

Crl.O.P.No.5153 of 2023

Durai Raj,
S/o.Elumalai

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
Thiruvarur Town Police Station,
Thiruvarur Dt.
(Crime No.26 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.26 of 2023 pending on the file of respondent police.

For Petitioner : Mr.P.Muthamizh Selvakumar

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 01.02.2023 for the alleged offence under Sections 147, 148, 341, 294(b), 324, 427, 506(ii), 307 of I.P.C. in Crime No.26 of 2023 on the file of the respondent police, seeks bail.

2. The case of prosecution is that on 01.02.2023, due to previous enmity, when the defacto complainant went along with his friend to the police station in order to solve the dispute between his friend and one Durairaj and also to assist him, at that time, the petitioner along with others abused him and brutally attacked him, thereby he sustained grievous injuries and admitted in hospital for treatment. Hence, the complaint was registered against the petitioner.

3. The learned counsel appearing for petitioner submitted that the entire allegation 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



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offence as alleged by the respondent police and due to previous enmity, 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 that the petitioner has been suffering incarceration for more than 29 days from 01.02.2023. 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 6 accused involved in this case and the petitioner is arrayed as A1. He would submit that no previous case pending against him. He would submit that on the date of occurrence, due to previous enmity, the petitioner along with other accused waylaid the defacto complainant, abused him and also assaulted him, thereby he sustained grievous injuries and admitted in hospital for treatment and subsequently, he was discharged from the hospital. He would submit that 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.



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5. Considering the above facts and circumstances, and also considering the fact that the investigation almost completed and the fact that the injured discharged from the hospital 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 **directed to deposit a sum of Rs.5000/- (Rupees five thousand only) into the credit of Crime No.26 of 2023 before the concerned Magistrate from the date on which this order is made ready and the victim is permitted to withdraw the said amount** and on such deposit, 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, for a like sum to the satisfaction of the **learned Judicial Magistrate Court, Thiruvarur**, and on further conditions that:

(a) the sureties shall affix their photographs and Left



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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 report before the respondent police on alternative days at 10.30 a.m. for the 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;

(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.

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To

1. The Judicial Magistrate Court,
Thiruvarur.
2. Inspector of Police,
Thiruvarur Town Police Station,
Thiruvarur Dt.
3. The Superintendent of Prison,
District Prison,
Thiruvarur.
4. The Public Prosecutor,
High Court of Madras,
Chennai.



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T.V. THAMILSELVI, J.

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