



Crl.O.P.No.5873 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2023

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.5873 of 2023

Nandakumar

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
H6, RK Nagar Police Station,
Chennai.

(Crime No.3 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail, in connection with the Crime No.3
of 2023, pending investigation on the file of the respondent Police.

For Petitioner : Mr.K.S.Harish

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 02.01.2023 for the offences under Section 174 Cr.P.C. @ 302 of IPC, in Crime No.3 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the *de-facto* complainant/ Kannan, who is the father-in-law of the petitioner, is that the petitioner had informed him that his wife Bapitha was unconscious and that she was taken to Apollo Hospital, where she was declared brought dead. Based on the complaint given by the de-facto complainant, a case in Crime No.3 of 2023 was registered for the offence under Sections 174 of Cr.P.C. Later, during the course of investigation, it came to light that the petitioner has murdered his wife by strangulation. Therefore, the case has been altered to one under Section 302 of IPC. Hence the case.

3. Learned Counsel for the petitioner submitted that the petitioner is an innocent person, aged about 32 years. He further submitted that there was a quarrel between the petitioner and the victim on account of the addiction of the petitioner to liquor and during the quarrel, the incident has



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happened. He further submitted that the petitioner was in an inebriated condition and there was absolutely no intention to murder the victim. He further submitted that the petitioner is in judicial custody from 02.01.2023 and major part of the investigation is also over. He also submitted that the petitioner has got two children and there is nobody to take care of the children except the petitioner. Hence, he prayed for grant of bail to the petitioner.

4. Learned Additional Public Prosecutor appearing for the respondent police submitted that the petitioner in an inebriated condition, had committed the murder of his wife by strangulation. He further submitted that one of the children of the petitioner is a witness in this case. He also submitted that the major part of the investigation is over. However, he opposed for grant of bail to the petitioner.

5. The learned counsel for the intervenor/ defacto complainant submitted that the petitioner is a drunkard, who has been addicted to liquor. He further submitted that after the murder of daughter of the defacto complainant, the children are in the custody of the defacto complainant. He



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further submitted that if the petitioner is granted bail at this stage, there is every possibility of taking the custody of the children by force. He also submitted that the petitioner being a drunkard, if the children are handed over to him, he will create a problem and apart from this, since one of the child is a witness in this case, he will threaten the witness and cause harm. Hence, he opposed for grant of bail to the petitioner.

6.In reply, the learned counsel for the petitioner submitted that the petitioner is ready to face the trial and he undertakes that he will not seek custody of the children until completion of the trial. He also submitted that he will resort to legal course for taking the custody of the children and thereby, he seeks for grant of bail to the petitioner.

7. Heard the learned Counsel for the petitioner as well as the learned counsel for the intervenor and the learned Additional Public Prosecutor and perused the materials available on record.

8. Taking into consideration the facts and circumstances of the case, the submissions made by either side of the parties and the period of



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incarceration undergone by the petitioner and also considering that the major part of the investigation has been completed, this Court is inclined to grant bail to the petitioner with certain conditions.

9. Accordingly, the petitioner is ordered to be released on bail on his executing 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 XV Metropolitan Magistrate, George Town** and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[b] the petitioner shall file an affidavit of undertaking stating that he will not disturb his children and the defacto complainant in future;

[c] the petitioner shall report before the respondent Police, everyday at 6.30 p.m., until further orders ;

[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 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 abscond, a fresh FIR can be registered under Section 229A IPC.

14.03.2023

vk

To

1. The XV Metropolitan Magistrate,
George Town.
- 2.The Inspector of Police,
H6, RK Nagar Police Station,
Chennai.
3. The Central Prison-2,
Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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