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Crl.O.P.No.6412 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2023

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

Crl.O.P.No.6412 of 2023

Vijayakumar

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Sholavaram Police Station,
Tiruvallur District.

(Crime No.79 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner/accused on bail, in connection with the
Crime No.79 of 2023, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.K.S.Arumugam

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)



Crl.O.P.No.6412 of 2023

WEB COPY

ORDER

The petitioner, who was arrested and remanded to judicial custody on 02.02.2023, in connection with Crime No.79 of 2023, registered under Section 174 of Cr.P.C and altered for the offence punishable under Section 302 of IPC, on the file of the respondent police, seeks bail.

2. On the complaint given by the *de-facto* complainant, Lakshmi that his son, Manoj, aged about 13 years, was admitted in a De-addiction-cum-Rehabilitation Centre, run by A1, to recover his son from the drug addiction, while so, on 01.02.2023, at midnight, A1 informed that his son was admitted in the hospital and when she went to hospital, she found his son was lying dead with injuries on his shoulder and on his back, a case in Crime No.79 of 2023 was registered by the respondent Police, under Section 174 of Cr.P.C. During the course of investigation, it came to light that during a fight in the home, the accused had assaulted the victim, due to which he sustained injuries and died, thereby, the case has been altered to one under Section 302 of IPC. Hence the case.



Crl.O.P.No.6412 of 2023

WEB COPY

3. Learned Counsel for the petitioner submitted that the petitioner is an innocent person, who was running a De-addiction-cum-Rehabilitation Centre in the name and style of A Best Care Foundation and he has been doing service of curing drug addicts and alcoholics, and he has been falsely implicated in this case. He further submitted that the victim has indulged in fight with his inmates and sustained injuries and the petitioner, other than being negligent in taking care of the petitioner, he has not committed any offence. He also submitted that the petitioner is in custody from 02.02.2023. Hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that it is a case, where the victim, who was admitted in the De-addiction-cum-Rehabilitation Centre owned by the petitioner (A1), was done to death by the petitioner and 3 other inmates by assaulting him. He further submitted that the rehabilitation center was closed and the other persons, who were taking treatment were sent to other center. However, he opposed for grant of bail to the petitioner.

5. In reply, the learned counsel for the petitioner submitted that the



Crl.O.P.No.6412 of 2023

post mortem report reveals that the victim has died on account of the suffocation due to the food stuck in his trachea. He also submitted that the petitioner was not present at the scene of occurrence and he is prepared to abide by any stringent conditions that may be imposed by this Court. Hence, he prayed for grant of bail to the petitioner.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the entire materials available on record.

7. Taking into consideration the facts and circumstances of the case, the submissions made by either side and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

8. 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**, for a like sum to the satisfaction of the **learned Judicial Magistrate No.II, Ponneri**, and on further conditions that:



Crl.O.P.No.6412 of 2023

[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 report before the respondent Police, everyday at 10.30 a.m., until further orders;

[c] the petitioner shall not abscond either during investigation or trial;

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[e] 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]*;

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

21.03.2023

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Crl.O.P.No.6412 of 2023

To
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1. The Judicial Magistrate No.II,
Ponneri.
2. The Inspector of Police,
Sholavaram Police Station,
Tiruvallur District.
3. The Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No.6412 of 2023

A.D.JAGADISH CHANDIRA.,J.

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Crl.O.P.No.6412 of 2023

21.03.2023