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Crl.O.P.No.6281 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2023

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

Crl.O.P.No.6281 of 2023

Thoufeeq Ahamed

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
H-2, Guduvancherry Police Station,
Chengalpattu District.

(Crime No.572 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner/accused on bail, in connection with the
Crime No.572 of 2022, pending investigation on the file of the respondent
Police.

For Petitioner	: Mr.V.T.Balaji for Mr.K.Vinayagam
For Respondent	: Mr.C.E.Pratap Government Advocate (Crl.Side)
For Intervener	: Mr.Manuraj



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 30.12.2022, in connection with Crime No.572 of 2022, registered under Section 174 Cr.P.C and altered for the offence punishable under Sections 120(B), 147, 201, 302 & 363 of IPC, on the file of the respondent police, seeks bail.

2. The *de-facto* complainant, Harish Shanawaz has lodged a complaint stating that on 21.12.2022 at about 10.30 p.m., his relative one Imran Basha/A1 had informed him that his father/victim, who had travelled along with A1, who is the son-in-law of victim's younger brother, has suffered fits and chest pain, therefore, he was taken to Deepam Hospital, Guduvancherry, where, he was informed that the victim was declared brought dead. Based on his complaint, a case in Crime No.572 of 2022 was registered by the respondent Police under Section 174 Cr.P.C. During the course of investigation, it came to light that the victim/deceased, who was a former M.P and also appointed by the State Government as the Vice-Chairman of the Tamil Nadu State Minorities Commission, had given a sum of Rs.15 lakhs to A1, whereas, A1 did not repay the amount. Further, there



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exists a property dispute and other issues between the victim and his younger brother's family, due to which, the accused have a grudge over the victim. Thereby, A1, who had borrowed the money from the victim, under the guise of repayment of the same, has taken the victim to Chengalpattu and on the way, he along with his friends, father-in-law and his wife, had committed murder of the victim by smothering and strangulating his neck. Thereby, the case has been altered to one under Sections 120(B), 147, 201, 302 & 363 of IPC. Hence the case.

3. Learned Counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely roped in this case. He further submitted that other than being the friend of A1, the petitioner has no connection with the offence. He also submitted that on the instructions given by A1, the petitioner had followed A1's car and he was not aware of the incident happened inside the car and also the existing enmity between A1 and the victim. He further submitted that other than the confession statement alleged to have been recorded from him while in custody, no other material is available as against the petitioner and also even as per the prosecution, the petitioner has not even touched the victim. He further submitted that the



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petitioner was arrested on 30.12.2022 and he is in custody for more than 80 days. 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 of preplanned murder committed by the accused, on account of the money dispute and some other family issues. He further submitted that A1, who had borrowed a sum of Rs.15 lakhs from the victim, under the guise of returning the money, had taken the victim in his car and as earlier planned with other accused, he had stopped the car, thereby, other accused had entered into the car and committed murder of the victim by smothering and strangulating his neck. He also submitted that the overt act attributed as against the petitioner, who is the friend of A1, is that he is the person who had arranged the hirelings to commit the murder of the victim. He further submitted that since, the petitioner is an influential person, if he is released on bail, there is every possibility of him to interfere with the investigation and also would tamper with the evidence. Hence, he prayed for dismissal of the petition.

5. Mr.Manuraj, learned counsel for the Intervener submitted that



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the petitioner is the close friend of A1, who is the son-in-law of the victim's younger brother. He further submitted that A1 and his family have grudge over the victim, on account of several family issues and further, A1 had also borrowed a sum of Rs.15 lakhs from A1 and he had not repaid the same. He also submitted that due to the existing enmity, A1, under the guise of returning the amount, had taken the victim in his car and committed murder of him along with other accused, who had followed A1's car, in a secluded place, as preplanned by them. He also submitted that the accused have also projected the death of the victim as heart attack and fits. He further submitted that the marriage of the de-facto complainant is fixed by next month and since, there was a several dispute between both the families, the de-facto complainant apprehends that the accused might create a problem during his marriage. Hence, he opposed for grant of bail to the petitioner.

6. At this juncture, the learned counsel for the petitioner submitted that the petitioner is ready to stay far away from the respondent jurisdiction and also prepared to abide by any stringent conditions that may be imposed by this Court.

7. Heard the learned Counsel for the Petitioner, Intervener and the



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

8. 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.

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**, for a like sum to the satisfaction of the **learned Judicial Magistrate No.II, Chengalpattu**, 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 stay at Kaliakavilai and report before the Inspector of Police, Kaliakavilai Police Station, everyday at 10.30 a.m. and 5.30p.m., until further orders;

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



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[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.

23.03.2023

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To

1. The Judicial Magistrate No.II, Chengalpattu.
2. The Inspector of Police,
H-2, Guduvancherry Police Station,
Chengalpattu District.
3. The Central Prison,
Puzhal, Chennai.
4. The Inspector of Police,
Kaliakavilai Police Station,
Kaliakavilai, Kanyakumari.
5. The Public Prosecutor,
High Court of Madras.

A.D.JAGADISH CHANDIRA.,J.



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