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Crl.O.P.No.6820 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2023

CORAM

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

Crl.O.P.No.6820 of 2023

1.Kosala

2.Sekar

... Petitioners

Vs.

State represented by
Station House Officer,
Reddichavadi Police Station
Cuddalore.

(Crime No.43 of 2023)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners on bail in Crime No.43 of 2023 pending
investigation on the file of the respondent police.

For Petitioners : Mr.J.Harikrishna
For Mr.D.Chandrakumar

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

ORDER

The petitioners, who were arrested and remanded to judicial
custody for the offences punishable under Sections 286, 338, 304(ii) of IPC
r/w 9-b(1) of Indian Explosive Act, in Crime No.43 of 2023 on the file of the
respondent police, seek bail.



2. The case of the prosecution as per the defacto complainant

Prabakaran, Village Administrative Officer, Cuddalore Taluk, is that the petitioners have run a Fire Works Factory without following the safety measures and other rules which resulted in an explosion and due to the occurrence, 3 persons died and 6 persons sustained injuries. Hence, the case.

3. Learned counsel appearing for the petitioner would submit that the petitioners are owners of the Fire Works Factory. The 1st petitioner is the licensee and the 2nd petitioner is the husband of the 1st petitioner who was looking after the business of his wife/1st petitioner. The Fire Works Factory was managed by a Supervisor and on the date of occurrence, unfortunately, both the petitioners were not in station and due to the negligence committed by the Supervisor, the explosion occurred and that the petitioners were not present in the scene of occurrence on the date of occurrence. However, they have been arrested since they are the Licensee and care taker of the factory and that they have been suffering incarceration from 06.03.2023. He would further submit that without prejudice, the petitioners are ready and willing to give a sum of Rs.1 lakh to the family of each of the deceased persons and Rs.25,000/- each to the injured persons as ex-gratia and would pray to grant bail to the petitioners.



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4. Learned Government Advocate (Crl. Side) appearing for the respondent police opposed for grant of bail to the petitioners stating that the petitioners have run the Fire Works Factory in a negligent manner without following the safety measures due to which, the explosion occurred and due to the occurrence, 3 persons died and 6 persons sustained injuries. He would further submit that the investigation is pending.

5. At this juncture, the learned counsel for the petitioners would submit that the Government has already paid some compensation to the victims however, without prejudice, the petitioners are ready and willing to pay a sum of Rs.4,50,000/- to the victims which may be treated as ex-greitia and to that effect they have also filed a Joint Affidavit dated 29.03.2023.

6. Heard the learned Counsel for the petitioners and the learned Government Advocate (Crl. Side) and perused the materials available on record and also the Joint Affidavit filed by the petitioners.

7. Taking into consideration the facts and circumstances of the case, the submissions made by either side of the parties and considering the voluntary undertaking made by the petitioners by way of Joint Affidavit



dated 29.03.2023 and also considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioner with certain conditions. The Joint Affidavit dated 29.03.2023, filed by the petitioners shall form part and parcel of this order.

8. Accordingly, the petitioners are directed to deposit a sum of **Rs.4,50,000/- (Rupees Four Lakhs Fifty Thousand Only)** to the credit of **Crime No.43 of 2023**, without prejudice to their rights and contentions before the trial Court, on such deposit, the petitioners are ordered to be released on bail on their executing separate bonds 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 No.II, Cuddalore**, 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 petitioners shall deposit a sum of **Rs.4,50,000/- (Rupees Four Lakhs Fifty Thousand Only)** to the credit of **Crime No.43 of 2023** and on receipt of the said amount, the learned Magistrate



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shall issue summons and pay a sum of Rs.1,00,000/- (Rupees One Lakh Only) to the spouse of each deceased (3 persons) and shall pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each to the injured persons (6 persons) on proper identification and acknowledgment.

[c] the petitioners shall report before the respondent Police, everyday at 10.30 a.m. for a period of two weeks and thereafter, on every Saturday until further orders;

[d] the petitioners shall not abscond either during investigation or trial;

[e] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

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A.D.JAGADISH CHANDIRA.,J.

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To

1. The Judicial Magistrate No.II,
Cuddalore.
2. Station House Officer,
Reddichavadi Police Station
Cuddalore..
3. The Central Prison, Cuddalore.
4. The Women Prison, Cuddalore.
5. The Public Prosecutor,
High Court of Madras.

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