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Crl.O.P.No.7260 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.7260 of 2023

M.Osanna

... Petitioner

Vs.

State Rep. by
The Inspector of Police
M-5 Ennore Police Station
Thiruvallur District.
(Crime No.86 of 2023)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.86 of 2023 pending
investigation on the file of the respondent police.

For Petitioner : Mr.T.Arockia Dass

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

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 05.03.2023, for the offences punishable under Section 174 (iii) Cr.P.C.,
@ 498(A), 304(B) IPC, in Crime No.86 of 2023 on the file of the respondent
police, seeks bail.



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2. Initially, the case came to be registered for accidental fire on the complaint of one Soundarya is that she was living with her husband/the petitioner herein and two children and on 14.02.2023, after having food they were sleeping and since, there was no electricity for a long time, they lit up Kerosene light and when they were sleeping, at about 12.30 p.m., the Kerosene light fell down and the fire spread over the body of the victim due to which, she sustained injury. Subsequently, she was admitted in the hospital by her husband and her mother and the case was registered under Section 174 Cr.P.C. Later, she died without responding to treatment. Thereafter, during investigation, it came to light that the petitioner who is the husband of the victim is a drunkard and he had harassed the victim continuously by demanding dowry due to which, the victim attempted to commit suicide by self immolation and she succumbed to burn injuries. Hence, the offences were altered as stated above and the petitioner was arrested.

3. Learned counsel appearing for the petitioner submitted that the petitioner has been falsely implicated in this case. The marriage between the petitioner and the deceased was solemnized in the year 2017 and they were



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blessed with 2 children and that the petitioner was working in Royal Enfield Company and the incident had happened on account of accidental fire.

Immediately, the petitioner and the victim's mother, took the victim to hospital and her statement was recorded in which, she has stated that she sustained injury on account of accidental fire. Later, her dying declaration was also recorded by the Special Magistrate for Land Grabbing Cases, Allikkulam, Egmore, Chennai, in which also, the victim has stated that she sustained injury on account of accidental fire and she has not made any allegations against the petitioner. Thereafter, after the death of her daughter, due to misunderstanding in the family, the mother of the victim has given a false statement as if, the petitioner is a drunkard and he had demanded further dowry, due to which the victim committed suicide by self immolation. He would further submit that the RDO enquiry is also completed and the petitioner has been suffering incarceration from 05.03.2023. Hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (Crl. Side) appearing for the respondent police opposed for grant of bail to the petitioner stating that admittedly the victim has given statement that she sustained injury on account of accidental fire. But during the course of investigation, it was



found that the petitioner is a drunkard and he had demanded dowry from the victim due to which, the victim committed suicide by self immolation in the night hours on 14.02.2023 and subsequently, she succumbed to injuries on 22.02.2023.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) and perused the materials available on record including FIR and the Dying Declaration of the victim.

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

7. 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 Judicial Magistrate, Thiruvotriyur**, 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 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]*;



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

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To

1. The Judicial Magistrate,
Thiruvotriyur.
2. The Inspector of Police
M-5 Ennore Police Station
Thiruvallur District.
3. The Superintendent,
Central Prison, Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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