



Crl.O.P.No.8094 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2023

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

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1. Mick daisan

2. Somasundaram

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
Keelaiyur Police Station,
Nagapattinam.

(Crime No.34 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioners/accused on bail, in connection with the
Crime No.34 of 2023, pending investigation on the file of the respondent
Police.

For Petitioners : Mr.C.Iyyapparaj

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



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ORDER

The petitioners, who were arrested and remanded to judicial custody on 27.02.2023, for the offences punishable under Sections 294(b), 323, 324 & 506 (ii) of IPC @ 294(b), 323, 324, 506 (ii), 302 of IPC, in Crime No.34 of 2023 on the file of the respondent police, seek bail.

2. The case of the prosecution as per the *de-facto* complainant, Dineshkumar is that he was in love with the daughter of one Somasundaram/A2 and on knowing the same, A2 had arranged marriage for his daughter with someone against her will, due to which, on 24.02.2023, she eloped from her house and came to the de-facto complainant's house and thereafter, the de-facto complainant had sent her back to her house. Later, on 27.02.2023, under the guise of settling the matter amicably, the accused have abused the de-facto complainant and his family in a filthy language and assaulted them with hands and wooden logs, due to which, they sustained grievous injuries and in which, the de-facto complainant's brother fell down unconscious and taken to the Government Hospital. Based on his complaint, a case in Crime No.34 of 2023 was registered by the respondent Police for the offences punishable under Sections 294(b), 323, 324 & 506 (ii) of IPC.



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Later, the de-facto complainant's brother died in the hospital on 02.03.2023, without responding to the treatment, therefore the case has been altered to one under Sections 294(b), 323, 324, 506 (ii) & 302 of IPC. Hence the case.

3. Learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have been falsely roped in this case. He further submitted that the de-facto complainant had earlier abducted the daughter of the 2nd petitioner and later, she came back to home, whereas, the de-facto complainant had repeatedly harassed her, due to which, there was a quarrel, during such time, the incident had happened. He also submitted that even as per the prosecution, the victim had died only after three days of the occurrence. He also submitted that initially, the case was registered for the offences punishable under Sections 294(b), 323, 324 & 506(ii) of IPC and later altered to one under Sections 294(b), 323, 324, 506 (ii) & 302 of IPC after the death of the victim on 02.03.2023. He further submitted that the petitioners have no intention to commit the murder of the victim and the incident had happened during a quarrel. He also submitted that the petitioners are in custody from 27.02.2023, hence, he prayed to grant bail to the petitioners.



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4. Learned Government Advocate (Crl. Side) appearing for respondent submitted that it is the case where, the petitioners, due to previous enmity, have abused and assaulted the de-facto complainant and his family with hands and wooden logs, due to which, he sustained grievous injuries. He also submitted that the de-facto complainant had taken his brother to a hospital and lodged a complaint against the accused on 27.02.2023, whereas, the victim died on 02.03.2023, without responding to the treatment. Initially, the case was registered for the offences punishable under Sections 294(b), 323, 324 & 506(ii) of IPC and later altered to one under Sections 294(b), 323, 324, 506 (ii) & 302 of IPC. He also submitted that investigation is still pending. Hence, he vehemently opposed to grant bail to the petitioner.

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

6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and taking



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note of the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain condition.

7. Accordingly, the petitioners are ordered to be released on bail on their executing a separate 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 District Munsif cum Judicial Magistrate, Kilvelur**, 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 stay at Madurai and report before the Inspector of Police, Vilakkuthoon Police Station, everyday at 10.30a.m., until further orders;

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

[d] the petitioners 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



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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]***;

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

13.04.2023

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To

1. The District Munsif cum Judicial Magistrate,
Kilvelur.
2. The Inspector of Polcice,
Keelaiyur Police Station,
Nagapattinam
3. The District Jail,
Nagapattinam.
4. The Inspector of Police,
Vilakkuthoon Police Station,
Madurai.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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