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Crl.O.P.No.8042 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2023

CORAM

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

Crl.O.P.No.8042 of 2023

1. S.Sandhiya @ Sarathkumar

2. K.Shiva Nethra @ Nagaraj

3. T.Reshma @ Akash

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
J1 - Saidapet Police Station,
Chennai.

(Crime No.83 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners on bail, in connection with the Crime
No.83 of 2023, pending investigation on the file of the respondent Police.

For Petitioners : Mr.M.Vignesh

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 24.03.2023, for the offences punishable under Section 174 Cr.P.C., @ Sections 294(b), 323, 306 of IPC, in Crime No.83 of 2023 on the file of the respondent police, seek bail.

2. The case of the prosecution as per the *de-facto* complainant Dass is that his brother, David @ Pavithra (transgender) had attempted to commit suicide by consuming sleeping pills and the victim was admitted in hospital and discharged after 5 days. Whereas, on 22.03.2023, the accused have abused and assaulted the victim again, due to which, he committed suicide by hanging. Based on his complaint, a case in Crime No.83 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 due to the money dispute, the accused have abused and assaulted the victim in front of the public, thereby, the victim, unable to bear the humiliation caused by the accused, had committed suicide by hanging. Therefore, the case has been altered to one under Sections 294(b), 323, 306 of IPC. Hence the case.



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3. Learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case. He further submitted that the fact remains is that the petitioners and the victim/deceased were living together and the victim had borrowed money from the petitioners and the victim unable to return the same, has committed suicide, whereas, due to the previous enmity, the de-facto complainant has lodged a false complaint against the petitioners, as if they have abetted the victim to commit suicide. He also submitted that other than the statement of the de-facto complainant, no materials are available to show that the petitioners have abetted the victim to commit suicide, whereas on surmises, they have been arrested on 24.03.2023, hence, he prayed to grant bail to the petitioners.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioners and the victim are known to each other and the victim had borrowed money from the petitioners and not repaid the same, due to which, the petitioners had harassed the victim. He also submitted that the victim had also attempted to commit suicide by consuming sleeping pills 10 days prior to the occurrence and even thereafter,



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the accused have abused and assaulted the victim, due to which, the victim had committed suicide by hanging. He also submitted that investigation in this case is still pending, hence, he vehemently opposed to grant bail to the petitioners.

5. Heard the learned Counsel for the petitioners and the learned Government Advocate (Crl.Side) and perused the materials available on record including the First Information Report.

6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel for the petitioners and also considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

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 IX Metropolitan Magistrate, Saidapet, Chennai**, and on further conditions that:



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[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 Thiruvarur and report before the Inspector of Police, Thiruvarur Town Police Station, everyday at 10.30 a.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 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 IX Metropolitan Magistrate,
Saidapet, Chennai.
2. The Inspector of Police,
J1 - Saidapet Police Station,
Chennai.
3. The Central Prison,
Puzhal.
4. The Inspector of Police,
Thiruvarur Town Police Station,
Thiruvarur.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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