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Crl.O.P.No.8686 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2023

CORAM

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

Crl.O.P.No.8686 of 2023

D.Hemanath

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
R.K.Pet Police Station,
Thiruvallur District.

(Crime No.108 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner/accused on bail, in connection with the
Crime No.108 of 2023, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.M.Jaikumar

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 21.02.2023, for the alleged offences punishable under Section 302 of IPC, in Crime No.108 of 2023, on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that the A1, who is the wife of the deceased, has an illicit intimacy with A2, due to which, A1 & A2 along with other accused, who are the friends of A2, had preplanned to do away with the husband of A1 and thereby, on 19.02.2023, they have committed murder of him by strangulating his neck. Hence, the case.

3. Learned Counsel for the petitioner submitted that this is the second application for bail filed by the petitioner and this Court had dismissed earlier bail application of the petitioner in Crl.O.P.No.6400 of 2023 dated 23.03.2023. He further submitted that the petitioner, other than being the friend of A2, he has nothing to do with the alleged offence. He also submitted that the petitioner, aged about 23 years, is pursuing his 1st year M.Com in Arulmighu Subiramaniam Swamy Government Arts College and he has been unnecessarily roped into this case. He also submitted no material



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evidence is available as against the petitioner, to implicate him in this case.

He further submitted that similarly placed co-accused has been granted bail by this Court in Crl.O.P.No.8072 of 2023 dated 13.04.2023. He further submitted that the petitioner is in custody from 21.02.2023 and he is ready to abide by any stringent conditions that may be available as against the petitioner. Hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent Police submitted that this Court had dismissed the petitioner's earlier bail application in Crl.O.P.No.6400 of 2023 vide order dated 23.03.2023 on the ground that the investigation is at nascent stage and also the petitioner was arrested very recently. He also submitted that as far as this case is concerned, the petitioner is the friend of A2. He further submitted that A2 had an illicit intimacy with A1, wife of the deceased, due to which, A1 & A2, along with petitioner and another accused, had committed murder of the husband of A1, by smothering and strangulating him. He also submitted that the specific overt act attributed as against the petitioner is that he had caught hold the leg of the victim. He also submitted that investigation in this case is still pending, thereby, he opposed for grant of bail to the petitioner.



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5. Heard the learned counsel for the petitioner 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 note of the fact that the similarly placed co-accused has been granted bail by this Court and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain condition.

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 District Munsif cum Judicial Magistrate, Pallipattu**, and on further conditions that:

[a] the sureties shall affix their photographs and
Left Thumb Impression in the surety bond and the



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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 06.30 p.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]*;

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

21.04.2023

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To

1. The District Munsif cum Judicial Magistrate Court,
Pallipattu.
2. The Inspector of Police,
R.K.Pet Police Station,
Thiruvallur District..
3. The Central Prison,
Chennai.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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