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CrI.O.P.No.9006 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2023

CORAM

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

CrI.O.P.No.9006 of 2023

Haridha Shahina

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
T.8, Guduvancherry Police Station,
Chengalpattu District.

(Crime No.572 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner/accused on bail, in connection with
P.R.C.No.14 of 2023, pending committal on the file of the Judicial
Magistrate-II, Chengalpattu.

For Petitioner : Mr.R.Sankarasubbu

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

For Intervener : Mr.Manuraj



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 19.02.2023, in connection with Crime No.572 of 2022, registered under Section 174 Cr.P.C and altered for the offence punishable under Sections 120(B), 147, 201, 302 & 363 of IPC, on the file of the respondent police, seeks bail.

2. The *de-facto* complainant, Harish Shanawaz has lodged a complaint stating that on 21.12.2022 at about 10.30 p.m., his relative one Imran Basha/A1 had informed him that his father/victim, who had travelled along with A1, who is the son-in-law of victim's younger brother, has suffered fits and chest pain, therefore, he was taken to Deepam Hospital, Guduvancherry, where, he was informed that the victim was declared brought dead. Based on his complaint, a case in Crime No.572 of 2022 was registered by the respondent Police under Section 174 Cr.P.C. During the course of investigation, it came to light that the victim/deceased, who was a former M.P and also appointed by the State Government as the Vice-Chairman of the Tamil Nadu State Minorities Commission, had given a sum of Rs.15 lakhs to



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A1, whereas, A1 did not repay the amount. Further, there exists a property dispute and other issues between the victim and his younger brother's family, due to which, the accused have a grudge over the victim. Thereby, A1, who had borrowed the money from the victim, under the guise of repayment of the same, has taken the victim to Chengalpattu and on the way, he along with his friends, father-in-law and his wife, had committed murder of the victim by smothering and strangulating his neck. Thereby, the case has been altered to one under Sections 120(B), 147, 201, 302 & 363 of IPC. Hence the case.

3. Mr.R.Sankarasubbu, the learned Counsel for the petitioner submitted that this is the second bail application of the petitioner and this Court had dismissed the earlier bail application of the petitioner in CrI.O.P.No.6789 of 2023 dated 29.03.2023. He further submitted that the petitioner is an innocent person and she has been falsely roped in this case, since she happens to be the wife of A1. He further submitted that other than being the wife of A1, the petitioner has no connection with the offence. He also submitted that the petitioner is a Dentist by profession and she is the daughter of A6 and the wife of A1 and the deceased/victim is none other than her father's brother. He further submitted that though the husband of the



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petitioner (A1) was arrested immediately on 30.12.2022, the petitioner was arrested only on 19.02.2023, i.e., after 50 days of A1's arrest, based on a new theory propounded by the prosecution and she is in custody for more than 60 days. He further submitted that the co-accused one Thoufee Ahamed in this case was granted bail by this Court in Crl.O.P.No.6281 of 2023 vide order dated 23.03.2023 and some of the accused were granted bail by the lower Court.

4. He further submitted that on the earlier occasion, the objection was made that the marriage of the son of the deceased was fixed on 23.04.2023 and there was an apprehension that the petitioner might interfere with the marriage and now, the marriage has been completed and the investigation in this case has been completed and the final report has also been filed and the case is pending committal in P.R.C.No.14 of 2023, on the file of the learned Judicial Magistrate-II, Chengalpattu. Hence, he prayed for grant of bail to the petitioner.

5. Learned Government Advocate (Crl.Side) appearing for the



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respondent Police submitted that this is the second bail application of the petitioner (A7), who is the wife of the main accused A1 and also submitted that it is a case of preplanned murder committed by the accused, on account of the money dispute and some other family issues. He further submitted that A1, who had borrowed a sum of Rs.15 lakhs from the victim and later, under the guise of returning the money, he had taken the victim in his car and as earlier planned with other accused, he had stopped the car, thereby, the other accused had entered into the car and committed murder of the victim by smothering and strangulating his neck. He also submitted that the petitioner, who is the relative of the victim is very well aware of the pre-plan of the other accused to commit the murder of the victim and she is the person, who had handed over a sum of Rs.1 lakh to the hirelings for executing the murder. He further submitted that since, the petitioner is an influential person, if she is released on bail, there is every possibility of her to interfere with the investigation and she would also tamper with the evidence. He also submitted that the respondent has only after getting the *prima facie* materials against the petitioner, had arrested the petitioner on 19.02.2023. He further submitted that investigation in this case has been completed and the final report has also been filed and the case is pending committal in P.R.C.No.14



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of 2023, on the file of the learned Judicial Magistrate-II, Chengalpattu.

Hence, he prayed for dismissal of the petition.

6. Mr.Manuraj, learned counsel for the Intervener submitted that it is the case of murder, committed after a deep-rooted conspiracy and the accused have also taken the victim into confidence that they are returning his money and he had innocently accompanied them, during such time, the accused have committed the murder and they have projected it as if the victim died on natural circumstances. He also submitted that though the charge sheet has been filed, since the petitioner is an influential person, there will be every possibility of the petitioner threatening the witnesses and interfering with the administration of justice. Hence, he opposed for grant of bail to the petitioner.

7. At this juncture, the learned counsel for the petitioner submitted that the petitioner is ready to stay far away from the respondent jurisdiction and also prepared to abide by any stringent conditions that may be imposed by this Court. Hence, he prayed for grant of bail to the petitioner.

8. Heard the learned Counsel for the Petitioner, Intervener and the



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

9. 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 investigation in this case has been completed and the case is pending committal on the file of the learned Judicial Magistrate-II, Chengalpattu and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

10. Accordingly, the petitioner is ordered to be released on bail on her executing a bond for a sum of **Rs.10,000/- (Rupees Ten thousand only)** with **two sureties**, for a like sum to the satisfaction of the **learned Judicial Magistrate No.II, Chengalpattu**, 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 stay at Salem and



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report before the Inspector of Police, Fairlands Police Station, everyday 10.30 a.m., until further orders, except on the dates of Court hearing before the trial Court;

[c] the petitioner shall not abscond during trial;

[d] the petitioner shall not tamper with evidence or witness during 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.

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To

1. The Judicial Magistrate No.II,
Chengalpattu.
2. The Inspector of Police,
T-8, Guduvancherry Police Station,
Chengalpattu District.
3. The Special Central Prison, Women,
Puzhal, Chennai-66.
4. The Inspector of Police,
Fairlands Police Station,
Salem.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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