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Crl.O.P.No.9404 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2023

CORAM

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

Crl.O.P.No.9404 of 2023

Sekar

... Petitioner

Vs.

State Represented by
The Inspector of Police
Mathigiri Police Station,
Krishnagiri District.
(Crime No.55/2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to release the petitioner on bail pending investigation in Crime
No.55 of 2023 on the file of the respondent herein.

For Petitioner : Mr.M.P.Saravanan

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

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 21.02.2023, for the offences punishable under Sections 302 and 307 of
IPC, in Crime No.55 of 2023 on the file of the respondent police, seeks bail.



2. The case of the prosecution as per the defacto complainant Rajanna is that on 20.02.2023 at about 12.30 p.m., due to previous enmity, A1 and A2 waylaid the son of the defacto complainant and assaulted him with knife and committed murder of his son Manjunath @ Murali. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case as if, he has abetted A1 in this case. Even as per the complaint, the defacto complainant is not an eye witness to the occurrence. Only based on the confession recorded from one Sandeep, the petitioner has been falsely implicated in this case. He would submit that the petitioner was arrested and remanded to judicial custody on 21.02.2023. and he has been suffering incarceration for more than 60 days and the major part of the investigation is over and that there is no other case pending against the petitioner. He also submitted that there is no specific overt-act against the petitioner. Hence, he prayed for grant of bail to the petitioner.

4. The learned Government Advocate (Criminal Side) for the respondent would vehemently oppose for grant of bail to the petitioner stating that the petitioner is the friend of A1/Sandeep and the said Sandeep,



due to previous enmity with the son of the defacto complainant one Manjunath @ Murali, waylaid the said Manjunath @ Murali on 20.02.2023 during noon hours and murdered him. The petitioner being the friend of A1/Sandeep had assisted him and he also inflicted injuries on the deceased.

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

6. It is seen that as per the compliant, the defacto complainant has made allegations against one Sandeed/A1 and later, during investigation, it has been stated that the petitioner also assisted A1.

7. Considering the above facts and circumstances of the case and the submissions made by the learned counsel on either side and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant of bail to the petitioner with certain conditions.

8. 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-II, Hosur, 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 Chennai and report before the Mylapore Police Station, 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]*;

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

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To

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1. The learned Judicial Magistrate – II, Hosur.
2. The Inspector of Police
Mathigiri Police Station,
Krishnagiri District.
3. The Superintendent,
Central Prison, Salem.
4. The Public Prosecutor,
High Court of Madras.



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