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Crl.O.P.No.9544 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2023

CORAM

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

Crl.O.P.No.9544 of 2023

M.Divya Devi

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
M-5, Vadavalli Police Station,
Coimbatore District.

(Crime No.76 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner/accused on bail, in connection with the
Crime No.76 of 2023, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.A.Swaminathan

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 21.03.2023, for the offences punishable under Sections 201 & 302 of IPC, in Crime No.76 of 2023, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 20.03.2023, the de-facto complainant's brother/victim had demanded A2/wife of A1, a sum of Rs.4,000/-, which was already given by the victim to A1 for the purpose of buying new mobile phone, whereas, A2 had refused stating that A1 was not at home, due to which, the victim had shouted in front of the accused house. Later, A1, enraged over the victim's act, quarrelled with him and both of them attacked each other, during which, the accused had attacked the victim with bamboo stick, due to which, the victim sustained grievous injuries and died. Hence, the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner, who is arrayed as A2, is an innocent person and she has been falsely roped into this case. He further submitted that the petitioner is the



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wife of A1 and she has nothing to do with the alleged offence and she has been unnecessarily implicated in this case. He also submitted that even as per the prosecution, no weapon has been used, whereas, the petitioner is stated to have been assaulted the victim with bamboo stick. He further submitted that the petitioner is in custody from 21.03.2023 and since both the petitioner and his husband (A1) are in judicial custody, there is no one to take care of their child, hence, he prayed for grant of bail to the petitioner stating that the petitioner is ready to abide by any stringent conditions that may be imposed by this Court. .

4. Learned Government Advocate (Crl.Side) appearing for respondent submitted that on account of the money dispute, the petitioner (A2) along with her husband (A1) had assaulted the victim/deceased with bamboo stick, due to which, he sustained grievous injuries and died. Hence, he opposed for grant of bail to the petitioner.

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



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6. Taking into consideration the facts and circumstances of the case, 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 bail to the petitioner with certain conditions.

7. 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**, each for a like sum to the satisfaction of the **learned Judicial Magistrate No.6, Coimbatore**, 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 report before the respondent Police, everyday at 10.30 a.m., for a period of two weeks and thereafter, on every Saturday at 10.30 a.m., until further orders;

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



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[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.

28.04.2023

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To

1. The Judicial Magistrate No.6,
Coimbatore.
2. The Inspector of Police,
M-5, Vadavalli Police Station,
Coimbatore District.
3. The Central Prison,
Coimbatore.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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