



CrI.OP.No.9676 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.05.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.OP.No.9676 of 2023

Appachikumar

... Petitioner/ A8

Vs.

State by
The Inspector of Police,
Dhalli Police Station,
Crime No.65 of 2023

... Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to release the petitioner on bail in crime No.65 of 2023 pending
investigation on the file of the respondent police.

For Petitioner : Mr.S.Lakshmanasamy

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor

For Intervenor : Mr.S.Prabhu



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 06.04.2023 for the offence punishable under Sections 147, 148, 294(b), 307, 353, 323 & 506(ii) of IPC in Crime No.65 of 2023 on the file of the respondent police, seeks bail

2. The case of the prosecution is that the defacto complainant's mother in law filed suit for recovery of money against A6 and obtained decree in her favour. To satisfy the decree, the land belongs to A6 was brought for auction, wherein the defacto complainant is the successful auction purchaser. However, the accused persons are preventing from taking possession of the property. 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. Hence, he prays for grant of bail to the petitioner.

4. The Additional Public Prosecutor appearing for the



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respondent police would submit that the first accused stabbed the victim with knife, thereby he sustained injuries. As far as the petitioner, he also accompanied the other accused persons. However, injured has been discharged from the hospital.

5. The learned counsel for the intervenor submitted that the victim is the auction purchaser of the property originally owned by the first accused. After confirmation of sale by issuance of sale certificate, he could not able to take possession of the subject property. At the time of execution of warrant while taking delivery of possession, that too in front of police personnel, the first accused stabbed the victim with knife causing injuries. Insofar as the petitioner, he also accompanied the other accused persons. Therefore, he vehemently opposed to grant bail to the petitioner.

6. There are totally eight accused, in which the petitioner is arrayed as A8. It is seen that now the victim has been discharged from the hospital. Insofar as the petitioner, there was no specific overt act.



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Considering the above facts and circumstances of the case and also the period of incarceration by the petitioner from 06.04.2023, this Court is inclined to grant bail to the petitioner.

7. Accordingly, the petitioner shall pay Rs.10,000/- (Rupees Ten Thousand only) directly to the victim and produce the acknowledgment before the Magistrate concerned. He shall also file undertaking affidavit while executing bond that they shall not interfere with the auction proceedings of delivery of possession taken by the victim in future on any mode. On filing of such undertaking affidavit and producing the acknowledgment for payment of Rs.10,000/-, 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 blood related sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.1, Udumalpet 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 pay Rs.10,000/- (Rupees Ten Thousand



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only) directly to the victim and shall file undertaking affidavit while executing bond that they shall not interfere with the auction proceedings of delivery of possession taken by the victim in future on any mode.

[c] the petitioner shall stay at Thammampatti and report before the Inspector of Police, Thammampatti Police Station, Attur Taluk, Salem daily at 10.30 a.m. and 05.30 p.m. for a period of four weeks and thereafter report before the respondent police daily at 10.30 a.m. and 05.30 p.m. for a period of two weeks and thereafter report before the respondent police as and when required for interrogation.

[d] the petitioner shall not abscond either during investigation or trial.

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] 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]**.

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

05.05.2023

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G.K.ILANTHIRAIYAN, J.

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To

1.The learned Judicial Magistrate No.1,
Udumalpet

2.The Inspector of Police,
Dhalli Police Station

3.The Inspector of Police,
Thammampatti Police Station,
Attur Taluk, Salem

3.Central Prison,
Coimbatore

5.The Public Prosecutor,
High Court of Madras,
Chennai

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