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CrI.OP. No.10648 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.05.2023

CORAM

THE HONOURABLE Mr. JUSTICE **SUNDER MOHAN**

CrI.OP. No.10648 of 2023

Mukesh Kumar

... Petitioner

Versus

State by Station House Officer,
Odiansalai Police Station,
Puducherry.
Crime No.68 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.
praying to enlarge the petitioner on bail in Crime No.68 of 2023 on the file of
the respondent police.

For Petitioner : Mr.A.Murugavel

For Respondent : Mr.K.S.Mohandass
Additional Public Prosecutor (Pondicherry)



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ORDER

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The petitioner, who was arrested and remanded to judicial custody on 09.04.2023 for the offences punishable under Sections 143, 341, 323, 304 IPC r/w. Section 149 of IPC in Crime No.68 of 2023 on the file of the respondent police, seeks bail

2. The case of the prosecution is that while the deceased riding his motor cycle, the accused persons along with others were standing on the middle of the road, waylaid and attempted to assault him, with the knowledge that if the fast moving vehicle was suddenly stopped, it may cause accident leading to death. While the deceased attempted to escape from them, he lost his control and hit on a road side tree and sustained head injury. Thereafter, he was taken to Government Hospital and he died. Based on the complaint given by the defacto complainant, the respondent police has registered a 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. He further submitted that there is no intention for the petitioner and the deceased only drove his vehicle rashly and due to over speed, the accident had



occurred and there is no overtact against the petitioner. He further submitted that A2 and A3 had already been granted bail by this Court on 04.05.2023. Hence, he seeks grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that all the accused persons, after attending a party, under the influence of alcohol travelled in one bike and one car and the deceased was riding in his motor cycle. The deceased was intercepted by the accused, he lost his control and hit on a road side tree. Therefore, the respondent registered a case under Section 304 of IPC. Hence, he vehemently opposed to grant bail to the petitioner.

5. Considering the above facts and circumstances of the case and also the period of incarceration of the petitioner from the date of their arrest i.e. on 09.04.2023, this Court is inclined to grant bail to the petitioner.

6. 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 blood related sureties, each for a like sum to the satisfaction of the learned Chief Judicial Magistrate, Puducherry and on further conditions that:



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[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 daily at 10.30 a.m. and 05.30 p.m. for a period of four weeks, thereafter, as and when required for interrogation.

[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 absconds, a fresh FIR can be registered under Section 229A IPC.

10.05.2023

pvs



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To

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- 1.The Chief Judicial Magistrate, Puducherry.
- 2.The Station House Officer,
Odiansalai Police Sation,
Puducherry.
- 3.The Superintendent, Central Prison, Puducherry.
- 4.The Public Prosecutor,
High Court of Madras,
Chennai



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SUNDER MOHAN, J

pvs

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