



CrI.O.P.No.10982 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.05.2023

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CrI.O.P.No.10982 of 2023

Sivakumar

... Petitioner

Vs.

The State Represented by
The Inspector of Police,
Alangayam Police Station,
Alangayam, Thirupathur District.

(Crime No.190 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner/accused on bail, in Crime No.190 of 2022,
pending investigation on the file of the respondent Police.

For Petitioner : Mr.G.Vinodh Kumar

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 23.04.2023 for the offence punishable under Section 174 Cr.P.C, altered



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to Section 302 of IPC, in Crime No.190 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that there are totally 2 accused, in which the petitioner is arrayed as A2. The accused and the deceased are relatives. Due to property dispute, the petitioner and other accused attacked the deceased with iron rod, due to which, the deceased sustained grievous injuries and died. Hence, the present case.

3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that the petitioner is no way connected with the alleged offence and co-accused namely A1 in this case has already been granted bail by this Court in Crl.O.P.No.10072 of 2023 on 04.05.2023. He also submitted that the petitioner is in custody from 23.04.2023. Hence, he prayed to grant bail to the petitioner.

4. Learned Additional Public Prosecutor appearing for the respondent police submitted that there are totally 2 accused, in which the



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petitioner is arrayed as A2. A1 is none other than the son of A2. There was a property dispute between the accused and the deceased. On the date of occurrence, the petitioner along with A1 had attacked the deceased with iron rod, due to which, the deceased sustained grievous injuries and died. It is also a case of circumstantial evidence. Hence, he vehemently opposed to grant bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and perused the entire materials available on record.

6. It is seen that there are totally 2 accused, in which the petitioner is arrayed as A2. A1 is none other than the son of A2. There was a property dispute between the accused and the deceased. On the date of occurrence, the petitioner along with A1 had attacked the deceased with iron rod, due to which, the deceased sustained grievous injuries and died. It is also a case of circumstantial evidence. Initially, the case was registered under Section 174 Cr.P.C and thereafter, it has been altered to Section 302 of IPC. The petitioner was arrested and remanded to judicial custody on 23.04.2023.



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7. Considering the above facts and circumstances of the case, and also considering the period of incarceration undergone by the petitioner from 23.04.2023 and also of the fact that the co-accused namely A1 has already been granted bail by this Court, this Court is inclined to grant bail to the petitioner.

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 No.III, Thirupathur**, 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 and 5.00 p.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.

11.05.2023

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To

- 1.The Judicial Magistrate No.III, Thirupathur.
2. The Inspector of Police,
Alangayam Police Station,
Alangayam, Thirupathur District.
3. The Central Prison,
Vellore.
- 4.The Public Prosecutor,
High Court of Madras



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SUNDER MOHAN, J

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