



Crl.OP.No.12036 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.05.2023

CORAM

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.OP.No.12036 of 2023

Thiyagarajan

... Petitioner

Vs.

State rep. By,
Inspector of Police,
K-10, Koyambedu Police Station,
Chennai
Crime No.153 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the Petitioner on bail in Crime No.153 of 2023 on the file
of the Inspector of Police, K-10, Koyambedu Police Station, Chennai.

For Petitioner : Mr.B.Thirumalai

For Respondent : Mr.L.Baskaran
Government Advocate (Crl. Side)



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ORDER

The Petitioner, who was arrested and remanded to judicial custody on 09.04.2023 for the offences punishable under Sections **294(b), 323 and 307 of IPC altered into 294(b), 323 and 302 of IPC** in Crime No.153 of 2023 on the file of the Respondent Police, seeks bail.

2. The case of the prosecution is that the defacto complainant is the Aunt of the deceased. The deceased was working as Loadman in Koyambedu Vegetable Market for the past 15 years. The deceased along with 5 others including the petitioner, used to unload goods and share Coolie among them. While so, the petitioner used to quarrel with the deceased demanding more wages since he was a Graduate. On 08.04.2023 at about 7.30 p.m., the deceased called the defacto complainant and informed that the petitioner abused him in filthy language and attacked him on his face with hands due to which, he fell down and sustained injuries on his head and asked the defacto complainant to come for help. When the defacto complainant went to the Market, she was informed that the deceased had been taken to KMC Hospital by 108 Ambulance wherein, he was taking treatment in serious condition.



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Based on the complaint given by the defacto complainant, initially the case was registered for the offences under Sections 294(b), 323 and 307 of IPC. Subsequently, on 14.04.2023, he died and hence, the offences were altered into Sections 294(b), 323 and 302 of IPC.

3. The learned Counsel appearing for the Petitioner would submit that on the date of occurrence, the deceased came in a drunken state and woke up the Petitioner who was sleeping in front of the shop and abused him in filthy language and also attacked him using leg. The Petitioner, while preventing the attack of the deceased, the deceased fell down and sustained injuries and that the Petitioner has no enmity or motive to kill the deceased. He further submitted that the Petitioner is in judicial custody from 09.04.2023. Therefore, he prays for grant of bail to the Petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent police vehemently opposed for grant of bail to the Petitioner stating that during a wordy quarrel between the Petitioner and the deceased in respect of sharing of wages, the Petitioner pushed down the deceased due to which, he sustained injuries on the head and later died in the hospital.



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5. Heard the learned counsel for the Petitioner and the learned Government Advocate (Crl. Side) and perused the materials available on record including the First Information Report and the C.D. File.

6. On a perusal of C.D. File, it is found that the case arisen out of a wordy quarrel between two Loadmen viz., the petitioner and the deceased. The petitioner is alleged to have undergone college education and still he is working as a Loadman in Koyambedu Market and he used to help the loadman as well as shop keepers in communicating and reading the details of the goods written in English. Therefore, his help was sought by so many loadmen. On the alleged date of occurrence, there was a wordy quarrel between the deceased and the petitioner during which, the petitioner is alleged to have given blow on the face of the deceased due to which, the deceased fell down and suffered injuries on his head. The occurrence was seen by the other loadmen who came and splashed water on his face. Though he regained consciousness, again he lost his consciousness. At that time, the accused is alleged to have moved away from the place of occurrence. Subsequently, it was found that the injured was bleeding from



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the ears. On a perusal of the C.D. file, the Post-mortem report is not found and it is seen that the investigation is not proceeded fairly.

7. Considering the above facts and circumstances and also considering the period of incarceration suffered by the Petitioner, this Court is inclined to grant 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 5th Metropolitan Magistrate, Chennai** and on further condition that:

(a) the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Judicial / Metropolitan Magistrate may obtain a copy of their Aadhar card or voter identity card or driving license or PAN card or Bank pass Book with photo affixed and attested by Bank Manager to ensure their identity;



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(b) the Petitioner shall stay at Salem and report before the Inspector of Police Asthampatti Police Station everyday at 10.30 a.m., until further orders. The petitioner shall not leave Salem without the permission of the Inspector of Police, Asthampatti Police Station.

(c) the Petitioner shall not influence, threaten or coerce the witness either during investigation or trial;

(d) the Petitioner shall not abscond either during investigation or trial;

(e) on breach of any of the aforesaid conditions, the Investigation Officer shall exercise the discretion to cancel the bail by approaching the Court of the learned Judicial Magistrate/Trial Court.

(f) the learned Judicial Magistrate/Trial Court shall on application for cancellation of bail bond by the Investigation Officer shall pass appropriate orders as though bail granted by the learned Judicial Magistrate/Trial Judge himself/herself as laid down by the Hon'ble Supreme Court in *P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]*; and;



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(g) if the Accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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Ksa2/Ssi

To

1. The 5th Metropolitan Magistrate Court,
Chennai.
2. Inspector of Police,
K-10, Koyambedu Police Station,
Chennai
3. The Inspector of Police,
Asthampatti Police Station, Salem.
4. Central Prison,
Puzhal
5. The Public Prosecutor,
High Court of Madras.



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SATHI KUMAR SUKUMARA KURUP,J.

Ksa-2/Ssi

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