



Crl.O.P.No.12483 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2023

CORAM

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

Crl.O.P.No.12483 of 2023

Venkatesan

... Petitioner

Vs.

State represented by
Inspector of Police
Kitchipalayam Police Station
Salem District
(Crime No.119 of 2023)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in Crime No.119 of 2023 on the file
of the respondent police.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mr. C.E.Pratap
Government Advocate (Crl. Side)



ORDER

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The petitioner, who was arrested and remanded to judicial custody on **21.04.2023** for the offences punishable under Sections 294(b) and 307 of IPC @ 294(b), 323, 324, 307 and 302 IPC, in Crime No.119 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Selavakumar who is the brother of the deceased Jayakumar is that, A1 often used to ask money for the deceased Jayakumar for consuming liquor. While so, on 18.04.2023 at about 01.00 a.m., when the deceased Jayakumar was taking with his friends Gopinath and Dinesh Kumar near Janaki Nagar, Baikadai, A1 along with other accused including the petitioner herein approached them and asked for money. The said Gopinath paid him Rs.20/- only and enraged by the same, A1 abused the said Gopinath with filthy language. When the deceased Jayakumar questioned the same, A1 attacked him with Reaper Kattai due to which, he sustained injuries and thereafter, during the course of treatment, he died on 19.04.2023. Initially, the case was registered for the offences under Sections 294(b) and 307 of IPC and subsequently, after the death of the victim, the offences were altered into Sections 294(b), 323, 324, 307 and 302 IPC.



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 since, he happened to be the friend of A1. He further submitted that even as per the complaint, the allegation against the petitioner is that he had only taken A1 to the place of occurrence by two wheeler and that there is no other allegation against the petitioner. He would submit that the petitioner has been suffering incarceration from 21.04.2023. Hence, he prayed for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) vehemently opposed for grant of bail to the petitioner stating that A1 along with other accused abused and attacked the brother of the defacto complainant with Reaper Kattai due to which, he sustained injuries and subsequently, he died on 19.04.2023. However, he would submit that there is no previous case against the petitioner .

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



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6. Considering the facts and circumstances of the case, the submissions made by the learned counsel on either side and the period of incarceration undergone by the petitioner, this Court is inclined to grant of bail to the petitioner with certain conditions.

7. 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 The Judicial Magistrate No.2, Salem** 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 stay at Tirunelveli and report before the Town Police Station everyday at 06.30 p.m., until further orders.

[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;



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[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 petitioners 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.

06.06.2023

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To

- 1.The Judicial Magistrate No.2, Salem
- 2.Inspector of Police
Kitchipalayam Police Station
Salem District
3. The Central Prison, Salem
4. The Public Prosecutor,
High Court of Madras.

Copy to:

The Inspector of Police
Town Police Station, Tirunelveli



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A.D.JAGADISH CHANDIRA,J.,

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