



Crl.O.P.No.12837 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2023

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

Crl.O.P.No.12837 of 2023

1. Muthuramalingam

2. Prakash

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
Gurubarapalli Police Station,
Krishnagiri, Tamil Nadu.

(Crime No.31 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners on bail in connection with P.R.C.No.21 of
2023 pending trial on the file of Judicial Magistrate Court No.2, Krishnagiri
in Crime No.31 of 2023 on the file of the respondent police.

For petitioners : Mr.R.Rajeshkumar

For Respondent : Mr.C.E.Pratap

Government Advocate (Crl.Side)



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ORDER

The petitioners, who was arrested and remanded to judicial custody on 26.01.2023, in connection with Crime No.31 of 2023, registered under Section 174 Cr.P.C and later, altered for the alleged offences punishable under Section 302 of IPC, on the file of the respondent, seeks bail.

2. The case of the prosecution as per the *de-facto* complainant/Vanitha, is that her husband/deceased, who was a practicing Advocate, was found dead in the car. On the complaint given by her, a case in Crime No.31 of 2023 was registered under Section 174 Cr.P.C. During the course of investigation, it came to light that the accused, who are the clients of the victim/deceased, on account of the previous dispute with regard to the purchase of contraband and also due to some financial dispute, had taken the victim/deceased in a car and had committed the murder by strangulating him with seat belt and escaped from the scene of occurrence. Thereby, the case has been altered to one under Section 302 of IPC. Hence the case.

3. Learned Counsel for the petitioners submitted that the petitioners are innocent persons and they had been falsely implicated in this



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case. He further submitted that originally the case has been registered under Section 174 Cr.P.C. and later, only based on the suspicion, the petitioners had been implicated in this case. He further submitted that investigation in this case has been completed and the case has also been pending committal in P.R.C.No.21 of 2023 on the file of the learned Judicial Magistrate No.2, Krishnagiri. He further submitted that the petitioners are in custody from 26.01.2023 and he is also ready to abide by any stringent conditions that may be imposed by this Court. Hence he prayed for grant of bail to the petitioners.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that due to the previous dispute with regard to the purchase of the contraband, the petitioners have committed murder of the de-facto complainant's husband by strangulating him with car's seat belt. He further submitted that investigation in this case has been completed and the final report has also been filed in P.R.C.No.21 of 2023, which is pending committal on the file of the learned Judicial Magistrate No.2, Krishnagiri. He further submitted that ample materials are available to show that the petitioners are the accused in this case and he also submitted that there are digital evidences by way of CCTV footages reflecting that the petitioners



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were going along with the victim/accused. He also submitted that as far as these petitioners are concerned, they are notorious elements and 15 previous cases are pending as against the first petitioner and 2 previous cases are pending as against the second petitioner. Therefore, if the petitioners are granted bail at this stage, there is every possibility of them to abscond and derail the progress of trial. Therefore, he vehemently opposed for grant of bail to the petitioners.

5. Heard the learned Counsel for the petitioners and the learned Government Advocate (Crl.Side) for the respondent and perused the entire materials available on record.

6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel on either side, this Court is inclined to grant bail to the second petitioner alone with certain conditions and taking note of the antecedents of the first petitioner, this court is not inclined to grant bail to him and thereby, the petition, insofar as the first petitioner is concerned, is liable to be dismissed.



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7. Accordingly, the criminal original petition in respect of the first petitioner stands dismissed and in respect of the second petitioner, the criminal original petition stands ordered. Thereby, the second 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.2, Krishnagiri**, 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 second petitioner shall appear before the learned Judicial Magistrate No.2, Krishnagiri, on all working days at 10.30a.m., until further orders;

[c] the second petitioner shall not abscond during trial;

[d] the second petitioner shall not tamper with evidence or witness during trial;

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the second petitioner in accordance with law as if the conditions have been



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imposed and the second 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.

09.06.2023

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To

1. The Judicial Magistrate No.2,
Krishnagiri.
2. The Inspector of Police,
Gurubarapalli Police Station,
Krishnagiri, Tamil Nadu.
3. The District Jail,
Krishnagiri.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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