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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2023

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

Crl.O.P.No.13150 of 2023

1. Dinesh
2. Gunalan ... Petitioners

Vs.

The State represented by,
The Inspector of Police,
Eriyur Police Station,
Dharmapuri District.

(Crime No.57 of 2023). ... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., pleased to grant bail to the petitioners in Crime No.57 of 2023 pending investigation on the file of respondent Police.

For Petitioners : Mr.R.Rajadurai

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

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O R D E R

The petitioners, who were remanded to judicial custody on 05.04.2023, for the offence punishable under Section 302 of IPC, in connection with Crime No.57 of 2023, registered on the file of the respondent Police, seek bail.

2. The case of the prosecution is that on 05.04.2023, the de-facto complainant/Pugazhenthiran, Forester, had received information that a naked dead body of an unknown male, aged 30 to 45 years, was found with injuries all over the body in the forest area. Based on his complaint, a case in Crime No.57 of 2023 was came to be registered for the offence under Section 302 of IPC. Later, during the course of investigation, the accused/petitioners had voluntarily surrendered before the learned Magistrate and confessed that they had committed the murder of the deceased/victim on account of his act that he had misbehaved with the girlfriend of the first petitioner. Hence the case.

3. Learned Counsel for the petitioners submitted that the petitioners are innocent persons, aged about 25 and 20 years respectively and they have been falsely implicated in this case. He further submitted that the Respondent

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Police had implicated the petitioners in this case and they attempted to arrest the petitioners, thereby, the petitioners fearing danger to their life, had voluntarily surrendered before the Learned Magistrate and they have been remanded to judicial custody and their confession statement has also been recorded. He also submitted that even as per the prosecution, the alleged murder is stated to have been taken place, since the deceased/victim had misbehaved with the girlfriend of the first petitioner. He further submitted that the petitioners are having permanent residence and there are ready to abide by any stringent conditions that may be imposed by this Court. He also submitted that the petitioners are in custody from 05.04.2023 and the major part of the investigation is also over, hence, he prayed to grant bail to the petitioners.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that it is the case, where the accused had committed murder in a very gruesome manner and the reason for the murder is that the deceased/victim had misbehaved with the girlfriend of the first petitioner/A1. He also submitted that the accused had committed murder of the deceased/victim by brutally assaulting him and further, the accused had

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mutilated the deceased/victim's face and also dismembered his private part. He further submitted that no previous case is pending as against these petitioners, however, he 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. In view of the above, this Court is of the view that based on the complaint given by the de-facto complainant, initially the case has been registered against the un-known accused and later, only during the course of investigation, the present petitioners had surrendered before the learned Magistrate, on apprehending that the prosecution may implicate them in this case.

7. Taking into consideration the above facts and circumstances of the case, the submissions made by the learned counsel on either side and taking note of the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

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8. Accordingly, the petitioners are ordered to be released on bail on their executing separate bond each 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, Pennagaram,** 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 petitioners shall report before the respondent Police, everyday at 10.30 a.m., until further orders;

[c] the petitioners shall not abscond either during investigation or trial;

[d] the petitioners 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 petitioners 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

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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.

14.06.2023

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To

1. The Judicial Magistrate,
   Pennagaram.

2. The Inspector of Police,
   Eriyur Police Station,
   Dharmapuri District.

3. The Central Prison,
   Salem.

4. The Public Prosecutor,
   High Court of Madras.

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A.D.JAGADISH CHANDIRA.,J.

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