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Crl.O.P.No.13110 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2023

CORAM

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

Crl.O.P.No.13110 of 2023
and Crl.M.P.No.8502 of 2023

1.Kathiravan
2.M.G

... Petitioners

Vs.

State rep by
The Inspector of Police
Vadaponparapi Police Station,
Kallakurichi District.

Crime No.106 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners on bail in Crime No.106 of 2023 on the file
of the respondent police.

For Petitioners : Mr.N.Arun Kumar

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

For Intervenor : Mr.S.Nedunchezhiyan for
Mr.Jayamalan

ORDER



The petitioners, who were arrested and remanded to judicial custody on 26.04.2023 for the offences punishable under Sections 147, 148, 294(b), 341, 323, 324, 506(ii) of IPC @ Sections 147, 148, 294(b), 341, 323, 324, 427, 506(ii) and 307 of IPC in Crime No.106 of 2023 on the file of the respondent police, seek bail.

2. The case of the prosecution as per the defacto complainant/ Mayavan is that on 25.04.2023, during the temple festival, the defacto complainant and other accused were distributing the porridge (koozh), at that time, there was a quarrel and during the quarrel, the petitioners along with other accused had assaulted the defacto complainant indiscriminately with wooden log and iron rod, due to which, the victim sustained grievous injuries. Hence the case.

3.Learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case. He further submitted that during a temple festival, there was a scuffle and the victim, who was an inebriated condition, has fallen down and sustained fracture and he has given a false complaint. He also submitted that the petitioners are in custody from 26.04.2023 and that the major part of the investigation has been completed. Hence, he prayed for grant of bail to the



petitioners.

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4. The learned Government Advocate (Crl. Side) appearing for the respondent submitted that during the temple festival, the petitioners along with 8 other accused have indiscriminately assaulted the victim by using wooden log and iron rod, due to which, the victim sustained two fractures. He further submitted that the injured has been discharged from the hospital. Hence, he opposed for grant of bail to the petitioners.

5. The learned counsel for the intervenor vehemently opposed for grant of bail to the petitioners stating that the petitioner in an high handed manner assaulted the defacto complainant with wooden log and iron rod, due to which, the victim sustained two fractures and now he is taking treatment from his home.

6. At this juncture, the learned counsel for the petitioners submitted that without prejudice to their contentions, the petitioners are ready and willing to deposit a sum of Rs.30,000/- each to the credit of Crime No.106 of 2023 as ex gratia towards medical expenses of the victim and they have no objection in the amount being handed over to the victim. Hence, he prays for



grant of bail to the petitioners.

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7. Heard the learned Counsels and perused the materials available on record including the FIR.

8. Merely, because the petitioners has deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

9. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side, the period of incarceration undergone by the petitioner and also considering the fact that the petitioners have volunteered to deposit a sum of Rs.30,000/- each to the credit of crime number as ex gratia to the victim, this Court is inclined to grant of bail to the petitioners with certain conditions.

10. Accordingly, **the petitioners are directed to deposit a sum of Rs.30,000/- each to the credit of Crime No.106 of 2023**, without prejudice to their rights and contentions and on such deposit and production of proof before the trial Court, the petitioners are ordered to be released on bail on their executing a separate 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, Sangarapuram, 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 deposit a sum of Rs.30,000/- (Rupees Thirty thousand only) each to the credit of Crime No.106 of 2023, before the concerned Magistrate, at the time of surrender and the learned Magistrate shall disburse the amount to the victim towards medical expenses;

[c] the petitioners shall stay at Chennai and report before the Inspector of Police, Washermanpet Police Station, everyday at 10.30 a.m., until further orders;

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

[e] the petitioners shall not tamper with evidence or witness either during investigation or trial; [f] 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



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himself as laid down by the Hon'ble Supreme Court in

P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560];

[g] If the accused thereafter abscond, a fresh
FIR can be registered under Section 229A IPC.

10. Accordingly, this Criminal Original Petition is ordered and
consequently, connected Miscellaneous Petition is closed.

21.06.2023

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To

1. The Judicial Magistrate,
Sangarapuram.
2. The Inspector of Police
Vadaponparapi Police Station,
Kallakurichi District.
3. The Inspector of Police,
Washermanpet Police Station,
Chennai.
4. The Central Prison,
Cuddalore.
5. The Public Prosecutor,
High Court of Madras.

A.D.JAGADISH CHANDIRA,J.,



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