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Crl.O.P.No.13348 of 2023

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and Crl.M.P.No.8819 of 2023

A.D.JAGADISH CHANDIRA, J.

The petitioner, who was arrested and remanded to judicial custody on 26.05.2023 in connection with Crime No.604 of 2022 registered for the offences under Sections 324, 341, 457 and 506(ii) of IPC @ Sections 120(b), 341, 307 of IPC r/w 114, 326, 427 of IPC on the file of the respondent Police, seeks bail.

2. The case of the prosecution as per the defacto complainant/ Senthilkumar is that on 16.12.2022, while he was driving his Alto car bearing Registration No.TN 33 AP 8889 from his house towards Nalroad of Nathakadaiyur, some unknown persons, who have come in a rash and negligent manner in a tipper lorry while crossing, has dashed the car, due to which, the defacto complainant had followed the vehicle. While so, the said persons have driven the lorry slowly and later, came in a opposite direction and again dashed his car. When the same was questioned by the defacto



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complainant, one Venkatesh, who is known to the defacto complainant, had instigated the driver to run the lorry over the defacto complainant and he had also assaulted the defacto complainant with hammer. During such time, his lungi fell down and that the defacto complainant has picked up the hammer and the said Venkatesh along with the lorry driver had run away from the scene of occurrence. Since the defacto complainant had given a complaint against the accused person for smuggling, the accused, in a preplanned manner, had attempted to commit murder of him. Hence the case.

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. He would further submit that the main accused in this case viz., Venkatesh was granted anticipatory bail in Crl.O.P.No.31841 of 2022 dated 23.12.2022 and that the injured has also been discharged from the hospital. He would also submit that the petitioner is in custody from 26.05.2023, hence, he prayed for grant of bail to the petitioner.



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4. The learned Government Advocate (crl.side) appearing for the respondent Police would submit that the defacto complainant has filed a petition against the illegal mining done by the accused and the accused Venkatesh, in a preplanned manner, had engaged a driver, who had watched over the movements of the victim and thereafter, when the defacto complainant had taken his car, the accused had gone in a tipper lorry and dashed him so as to commit murder. He would further submit that the investigation is still pending. Hence, he opposed for grant of bail to the petitioner.

5. The learned counsel for the intervener would submit that though the anticipatory bail has been granted to A1, the defacto complainant had filed a Special Leave Petition before the Hon'ble Apex Court against the grant of order. He would further submit that at that time of hearing of anticipatory bail petition, certain important aspects were not put forth before this Court and in a case where the accused had attempted to commit murder in a preplanned manner and the investigation has to be done in a serious



manner by brining out electronic evidence. Till date, the identification parade has not been conducted. He would further submit that the defacto complainant has also produced the CCTV footages of the camera which was fixed infront of his house, wherein, it was clearly seen that a person, who was wearing a Orange colour dhoti, was picked up by the said Venkatesh in a two wheeler prior to the incident and thereafter, the CCTV footages shows that the person, wearing the orange colour dhoti is the person who had driven the lorry. Till date, the respondent have not arranged for conducting the test identification parade. Further, the electronic evidence have not been recovered by the respondent sofar and at this stage, the bail is granted to the petitioner, there is every possibility of the petitioner and the main co-accused, who has been granted anticipatory bail, interfering with the investigation. He would also submit that the defacto complainant has sustained multiple injuries and he was admitted in Ganga Hospital on 16.12.2022 and he was discharged only on 03.01.2023. He would also submit that SLP, challenging the order of grant of anticipatory bail to the other accused, has also been admitted and it is pending. Thereby, he would seeks for dismissal of the petition.



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6. Heard the learned counsel for the petitioner, the learned Government Advocate (crl.side) and the learned counsel for the intervener and perused the entire materials available on record.

7. Taking into consideration the facts of the case and the submissions made by the learned counsel on either side and it seems to be a case of preplanned attempt to murder of the defacto complainant and the test identification parade has not been conducted so far and investigation is pending at the initial stage, this Court is not inclined to grant bail to the petitioner

8. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

26.06.2023

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