



WEB COPY



CrI.O.P.No.13541 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2023

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

CrI.O.P.No.13541 of 2023

Nishanth Kumar

... Petitioner

Vs.

The State represented by,
The Station House Officer,
D.Nagar Police Station,
Puducherry.

(Crime No.83 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to grant bail to the petitioner, in Crime No.83 of 2023, pending
investigation on the file of the respondent Police.

For Petitioner : Mr.A.Jeeva

For Respondent : Mr.K.S.Mohandass
Public Prosecutor (Puducherry)
Assisted by, Mrs.Dhanalatchumi



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 13.04.2023, for the offence punishable under Sections 294(b), 307 & 506(ii) of IPC r/w 34 of IPC @ 294(b), 302, 506(ii) of IPC r/w 34 of IPC, in connection with Crime No.83 of 2023, registered on the file of the respondent, seeks bail.

2. The case of the prosecution is that the third accused and the deceased/victim are brothers and there exists a property dispute them, due to which, A3 had engaged hirelings to do away with his own brother, thereby, on 11.04.2023, around 08.15 p.m., on the instigation of the third accused, the first and second accused had assaulted the deceased/victim, due to which, he fell down and sustained head injuries. Thereafter, the deceased/victim was taken to IGMCRI and later, he was referred to JIPMER, whereas, the victim died without responding to the treatment. Hence the case.

3. Learned Counsel for the petitioner submitted that the petitioner (A2) is an innocent person and he has been falsely implicated in this case. He



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WEB COPY further submitted that even as per the prosecution, on 11.04.2023, there was a quarrel between the deceased/victim and his brother (A3) and during which, he fell down and sustained grievous injuries and further, no weapon had been used by the petitioner. He also submitted that the petitioner is in custody from 13.04.2023 and he is also ready to abide by any stringent conditions that may be imposed by this Court. He further submitted that major part of the investigation is also over, hence, he prayed for grant of bail to the petitioner.

4. The respondent Police has filed a detailed counter.

5. Learned Public Prosecutor (Puducherry) appearing for the respondent police submitted that it is the case, where, due to the property dispute, the third accused had engaged hirelings to do away with his own brother. He also submitted that the petitioner (A2), who is one among the hirelings engaged by A3, along with another accused had assaulted the deceased/victim with hands, resulting in him sustaining head injuries and died without responding to the treatment. He further submitted that one previous case is pending against this petitioner and also submitted that the investigation in this case is pending, hence, he opposed for grant of bail to the



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petitioner.

6. Heard the learned Counsel for the petitioner and the learned Public Prosecutor (Puducherry) for the respondent Police and perused the entire materials available on record.

7. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and also considering the period of incarceration undergone by this petitioner, this Court is inclined to grant bail to the petitioner with certain condition.

8. 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 Judicial Magistrate - II, Puducherry**, 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 Karaikal and



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report before the Karaikal Town Police, everyday at 10.30 a.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;

[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 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.

21.06.2023

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A.D.JAGADISH CHANDIRA.,J.

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To

1. The Judicial Magistrate - II,
Puducherry.
2. The Station House Officer,
D.Nagar Police Station,
Puducherry.
3. The Central Prison,
Kalapet, Puducherry.
4. The Public Prosecutor (Puducherry),
High Court of Madras.

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