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Crl.O.P.No.14113 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on 14.07.2023	Orders pronounced on 19.07.2023
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THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.14113 of 2023

1. J.Jayabalaji
 2. M.Sulochana
- ... Petitioners

Vs.

State represented by
The Inspector of Police
Perambalur Police Station
Perambalur.

... Respondent

This Criminal Original Petition is filed under Section 438 Cr.P.C. to enlarge the petitioners on bail in the event of their arrest, registered in the Crime No.421 of 2023 pending investigation before the respondent.

For Petitioner-1	: Mr.R.C.Paul Kanagaraj
For Petitioner-2	: Mr.D.Selvam
For Respondent	: Mr.N.S.Suganthan Government Advocate (Crl. Side)



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ORDER

This Criminal Original Petition is filed praying to enlarge the petitioners on bail, in the event of their arrest, relating to Crime No.421 of 2023 pending investigation before the respondent.

2. Learned counsel Mr.R.C.Paul Kanagaraj for first petitioner and Mr.D.Selvam for second petitioner submitted that petitioners are shown as accused in Crime No.421 of 2023 for the offence under section 302 IPC.

3. Learned counsel for first petitioner submitted that first petitioner runs an association for the welfare of Devendra Kula Vellalar. He is the president of the association. He actively involved in social welfare activities and against the highhandedness of the police, especially police department's indirect support in the sale of ganja. Deceased Selvaraj alias Abdul Rahman was the victim of murder in this case. In the said murder case, one Azhagiri is shown as main accused. It is claimed that at the instance of Azhagiri, other accused had murdered Selvaraj alias Abdul Rahman. First petitioner helped Azhagiri in getting the school admission to



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his children. Other than that, first petitioner has no connection with Azhagiri. There is no proof against first petitioner in conspiring with other accused to murder the deceased.

4. Learned counsel for second petitioner submitted that second petitioner is a teacher earning more than sufficient income and she is in no way connected with this criminal case. Petitioners are implicated on the basis of the confession statement of co-accused. Thus, learned counsel for petitioners seeks the release of petitioners in anticipatory bail.

5. In response, learned Government Advocate (Crl. Side) submitted that there are totally 23 accused in this case and 14 accused had been arrested, two accused had surrendered and two accused had been formally arrested. Petitioners and three more accused are still absconding. Because of their abscondance, police could not complete the investigation and file the final report. Custodial interrogation of the petitioners is necessary for eliciting the information, which is in the exclusive knowledge of the petitioners, to know about their involvement and the involvement of



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other accused and for gathering other material evidence. Deceased was working under first accused. Then he started to act on his own. That was not liked by the first accused. Therefore, he entered in conspiracy with other accused to do away with the deceased. Other accused had given confession statements implicating petitioners. Petitioners have spoken with other accused during the relevant point of time and 'call details record' is available to prove the conversation. First petitioner visited first accused in prison. Submission of learned counsel for the first petitioner that first petitioner met first accused in prison in connection with getting school admission to the children of first accused, is not correct.

6. Considered the rival submissions and perused the records.

7. First information allegations, in brief, are that defacto complainant's husband had gone along with one Vishal to Perambalur for consuming alcohol and for purchasing a cake on the eve of his birthday and wedding day. At about 4.00 p.m. on 05.06.2023, she was informed by Vishal that deceased Selvaraj alias Abdul Rahman was consuming alcohol



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along with his friends Shankar and Thiagarajan. He summonsed one Saravanan through phone. Then he introduced Saravanan to Shankar and Thiagarajan and also consumed alcohol with them. Thereafter, three persons came with Aruval and attacked deceased on his head and caused his death. On getting this information, she visited the hotel and then gave a complaint.

8. As informed by the learned Government Advocate (Crl. Side), out of 23 accused, still 5 accused are absconding. Learned Government Advocate (Crl. Side) produced confession statements of the accused, viz., first accused Azhagiri, second accused Sangeetha, third accused Saravanan, sixth accused Dhanapal and eighth accused Abinash to show the involvement of petitioners in the conspiracy to commit the murder of deceased. Learned Government Advocate (Crl. Side) has also produced the 'call details record' in respect of the cell phone conversations between second accused Sangeetha and first petitioner Jayabalaji, second accused Sangeetha and second petitioner Sulochana. That apart, learned Government Advocate (Crl. Side) also produced copies of the 'jail visitors details' to show that first petitioner visited accused Azhagiri on 06.01.2023 claiming himself as



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“brother of Aligiri” and on 09.03.2023 claiming himself as “father of Azhagiri”.

9. It is settled proposition of law that confession statements of accused given whilst under the custody of police is not admissible, except for the limited purpose under section 27 of Indian Evidence Act for discovery of fact. The confession statements of co-accused show that petitioners had also involved in the kattapanchayat conducted by accused Azhagiri and shared the booty. First petitioner wanted to become MLA and required financial and other support from other accused. Second petitioner badly wanted her husband to become MLA and willingly participated in criminal activities. It is stated that first accused used BJP party flag in his car and used the car for transporting ganja. Though this statement, on its face value, is not admissible in evidence, if the police is able to gather evidence with regard to the sharing of booty, involvement in various criminal activities, illegal transportation of ganja by the petitioners, then this statement assumes importance. As already stated, it is evident from the 'call details record' that second accused had frequently communicated with first petitioner prior to



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and after the death of deceased. She had also communicated with second petitioner. First petitioner had visited the accused Azhagiri in prison claiming himself as “brother” on one occasion and as “father” in another occasion. These incriminating materials make this Court to believe that there is a possibility that petitioners have also participated in the conspiracy to commit the murder of deceased Selvaraj alias Abdul Rahman, aided and abetted the other accused in the commission of offence.

10. Investigation in this case is in the beginning stage. Learned Government Advocate (Crl. Side) submitted that custodial interrogation of petitioners is absolutely necessary to know the fund transaction between accused and rowdy elements in this matter, to establish the connection of accused with various rowdy elements, making of conspiracy, role of petitioners, surrendering fake accused etc. In such circumstances, this Court is of the view that if the anticipatory bail is granted to the petitioners, it will affect the course of the investigation. Custodial interrogation of the petitioners is necessary to bring the investigation to its logical conclusion. In this view of the matter, this Criminal Original Petition is dismissed.



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19.07.2023

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Index : Yes/No

Internet: Yes

Speaking Order/Non-speaking Order

Neutral Citation : Yes / No

To

1. The Inspector of Police
Perambalur Police Station
Perambalur.
2. The Public Prosecutor,
Madras High Court,
Chennai.

G.CHANDRASEKHARAN,J.

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2023 order in
Crl.O.P.No.14113 of

19.07.2023