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CrI.O.P.No.14437 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2023

CORAM

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

CrI.O.P.No.14437 of 2023

Kamalakaran

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Thirunavalur Police Station,
Kallakurichi District.

(Crime No.232 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner/accused on bail, in connection with Crime
No.232 of 2023, pending on the file of the respondent Police.

For Petitioner : Mr.V.Parthiban

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 15.05.2023, in connection with Crime No.232 of 2023, for the offence punishable under Sections 294(b) & 302 of IPC, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that in the year 2019, due to a property dispute, the deceased/victim had committed the murder of his father, who is the brother of the de-facto complainant, thereby, he was living separately. While so, on 14.05.2023, the deceased/victim had gone to his house and demanded his share in the property to his elder brother/petitioner herein, due to which, the petitioner got angry at the deceased/victim and had abused and assaulted him with his hands and further, on him falling down, he kicked on his private parts, due to which, he died. Hence the case.

3. Learned Counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that even as per the prosecution, the occurrence is stated to



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have happened during the fight and scuffle and the petitioner assaulted him with his hands and he did not use any weapon. He also submitted that major part of the investigation is over and the petitioner is ready to abide by any stringent conditions that may be imposed by this Court and he is languishing in judicial custody from 15.05.2023. Hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent Police submitted that due to the property dispute, the petitioner had abused and assaulted his younger brother with his hands and also kicked him on his private parts, due to which, he died. He further submitted that the investigation in this case is still pending and also submitted that one previous case is pending against the petitioner, hence, he vehemently opposed for grant of bail to the petitioner.

5. Heard the learned Counsel for the Petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the entire materials available on record.



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6. 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 the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

7. 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 No.II, Ulundurpet, Kallakurichi District**, 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 Tirunelveli and report before the Inspector of Police, Palayamkottai Police Station, everyday 10.30 a.m. and 5.30 p.m., until further orders;

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

[d] the petitioner shall not tamper with evidence



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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.

28.06.2023

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To

1. The Judicial Magistrate No.II,
Ulundurpet, Kallakurichi District.
2. The Inspector of Police,
Thirunavalur Police Station,
Kallakurichi District.
3. The Sub Jail, Ulundurpet, Kallakurichi District.
4. The Public Prosecutor,
High Court of Madras.
5. The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli.



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A.D.JAGADISH CHANDIRA.,J.

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