



Crl.O.P.No.17124 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

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

Crl.O.P.No.17124 of 2023

Sivalingam @ Ashok

... Petitioner

Vs.

State represented by,
The Inspector of Police
Thellar Police Station,
Tiruvannamalai District.

Crime No.287 of 2023

... Respondent

PRAYER : Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail pending trial before the Judicial
Magistrate Court, Vandhavasi in P.R.C.No.4 of 2023.

For Petitioner : Mr.N.Subramani

For Respondent : Mr.S.Balaji
Government Advocate (Crl.Side)



ORDER

The petitioner, who was arrested and remanded to judicial custody on 01.03.2023, for the offences punishable under Sections 460, 392 & 302 IPC, in Crime No.99 of 2022, seeks bail.

2. Based on the complaint given by the de-facto complainant/ Sellakutty that on 12.09.2022, his mother named Deivanai, aged about 75 years, was found lying dead in the backside of his house, a case in Crime No.99 of 2022 was came to be registered under Section 174 Cr.P.C. Later, during the course of investigation, it came to light that the accused/petitioner had committed murder of the victim and had robbed ear stud and nose pin from her and escaped from the scene of occurrence, thereby, the case has been altered to one under Sections 460, 392 & 302 of IPC. During investigation, the petitioner was arrested on 01.03.2023 and confession statement was also recorded from him. Based on the confession statement recorded from the petitioner/accused, ear stud and nose pin of the victim were recovered from the house of the petitioner/accused. Hence the case.

3. Learned counsel appearing for the petitioner submitted that this is the second application for bail filed by the petitioner before this Court and this Court had dismissed the earlier bail application filed in Crl.O.P.No.13235 of



2023 dated 14.06.2023. He further submitted that the occurrence is stated to have been taken place on 12.09.2022, whereas, the petitioner was arrested only after 6 months on 01.03.2023. He also submitted that other than the alleged confession statement recorded from the petitioner, based on which, the robbed jewels were stated to have been recovered from the house of the petitioner, no other materials are available against the petitioner to implicate him in the offence of murder. He also submitted that the statement of the witnesses, who are the neighbours of the deceased stated to have seen the petitioner prior to the occurrence, were recorded only after the arrest of the petitioner/accused, thereby, creating a doubt with regard to the case of the prosecution. He also submitted that there is no previous case pending as against the petitioner and he is in custody from 01.03.2023.

4. He further submitted that the case is now been committed to the Court of Sessions and taken up in S.C.No.93 of 2023 and later made over to the Mahila Court, Tiruvannamalai and the case now stands posted for engaging the Advocate on 19.09.2023. He also submitted that the petitioner has to engage an Advocate to defend his case, thereby, he prayed to grant bail to the petitioner. He also submitted that the petitioner is also prepared to abide by any stringent conditions that may be imposed by this Court and also ready to cooperate for the speedy disposal of the trial.



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5. Learned Government Advocate (Crl.Side) appearing for the respondent submitted that this is the second bail application of the petitioner before this Court. He further submitted that it is the case of murder for gain. He further submitted that as per the prosecution, the petitioner is stated to have trespassed into the house of the deceased/victim, committed murder of her and taken away the ear stud and nose pin from the deceased and ran away from the scene of occurrence. He also submitted that there are witnesses to show that the petitioner was found near the house of the deceased/victim, on the day prior to the occurrence and based on the confession statement recorded from the petitioner/accused, the jewels were recovered only from the house of the accused. He also submitted that the investigation in this case has been completed and the case is pending trial on the file of the Mahila Court, Tiruvannamalai, in S.C.No.93 of 2023. He further submitted that the case, now stands posted on 19.09.2023 for engaging Advocate. Therefore, he seeks for dismissal of this petition.

6. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl.side) for the respondent and perused the materials available on record.



7. It is the case of murder for gain, however, there is no eye witness to the incident and the prosecution relies only on the circumstantial evidence. It is also seen that the petitioner is in custody from 01.03.2023 and that the case is now been taken up for trial in S.C.No.93 of 2023 on the file of the Mahila Court, Tiruvannamalai and the petitioner has to engage a counsel to defend his case in an effective manner.

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

9. 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 (out of which, one surety should be the blood surety)**, each for a like sum to the satisfaction of the **learned Judicial Magistrate, Vandhavasi** 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;



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[b] the petitioner shall appear before the learned trial Judge, Mahila Court, Tiruvannamalai on all working days at 10.30 a.m., till framing of charges and thereafter, on the dates fixed by the learned trial Judge;

[c] the petitioner shall not abscond during trial;

[d] the petitioner shall not tamper with evidence or witness during 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 petitioners 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.

07.09.2023

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To

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1. The Judicial Magistrate,
Vandhavasi.
2. The Mahila Court,
Tiruvannamalai.
3. The Inspector of Police
Thellar Police Station,
Tiruvannamalai District.
4. The Central Prison,
Vellore.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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