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Crl.O.P.No.17120 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2023

CORAM

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

Crl.O.P.No.17120 of 2023

Santhakumar
S/o. Muthusamy

... Petitioner

- Vs. -

State by Station House Officer,
D.Nagar Police Station,
Puducherry,
(Crime No.83 of 2023)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.83 of 2023 on the file of the respondent.

For Petitioner : Mr.A.Jeeva

For Respondent : Mr.K.S.Mohan Dass
Public Prosecutor (Puducherry)



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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 police, 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 between them, due to which, A3 had engaged hirelings to do away with his own brother, thereby on 11.04.2023, at about 08.15 p.m., on the instigation of the third accused, the petitioner along with the 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, where, the victim died without responding to the treatment. Hence, the case.



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3. The learned counsel for the petitioner would submit that this is the second bail petition for bail and the earlier bail petition in Crl.O.P.No.13207 of 2023 was dismissed by this Court on 21.06.2023 on the ground that the petitioner is having six previous cases pending against him. He would further submit that the petitioner has been regularly appearing before the Court in all the cases and as far as, the present case is concerned, the incident is said to have been taken place during the quarrel between the deceased/victim and his brother (A3) and there was absolutely no intention on the part of the petitioner or the other accused to commit the murder of the victim. In this case, no weapon was used and during the scuffle the petitioner is said to have pushed the victim and assaulted him with hands, due to which, he fell down and sustained head injuries. He would further submit that the incident has happened on 11.04.2023 whereas, the deceased breathed his last on 17.05.2023 after a month, due to improper treatment. He would further submit that the act of the petitioner cannot be attributed to the offence of having committed murder. He would further submit that charge sheet has been filed in P.R.C.No.90 of 2023, which is pending on the file of the Judicial Magistrate -II, Puducherry and the petitioner is ready to abide by any



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stringent condition imposed by this Court. Hence, he prayed for grant of bail for the petitioner.

4. The respondent filed detailed counter affidavit. The learned Public Prosecutor (Puducherry) for the respondent police would submit that this Court taken into consideration that the petitioner is an habitual offender and dismissed the earlier bail petition. He would further submit that it is a case where due to the property dispute, the third accused had engaged hirelings to do away with this own brother. He also submit that the petitioner (A1), 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. Further the incident was occurred on 11.04.2023 and the victim died on 17.05.2023. However, no weapon was used in this case. Hence, he vehemently opposed to grant bail to the petitioner.

5. Heard the learned counsel for the petitioner, the learned Public Prosecutor for the respondent and perused the materials placed on record.



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6. In this case, the incident is stated to have taken place on 11.04.2023 and the victim passed away on 17.05.2023 after a month. Admittedly, as per the prosecution, no weapon has been used in this case.

7. Taking into consideration the facts and circumstances of the case and the submissions of the learned Counsels and also considering the period of incarceration suffered by the petitioner from 13.04.2023 and also investigation has been completed, this Court is inclined to grant bail to the petitioner subject to the following conditions:

Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.20,000/- (Rupees Twenty thousand only)** with **two sureties (one surety shall be the blood surety of the petitioner)**, 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 report before the Judicial Magistrate -II, Puducherry, on all working days at



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10.30 a.m., (Except the days he has to appear before any other Courts) 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.

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To

- 1.The Station House Officer,
D.Nagar Police Station,
Puducherry.
- 2.The Public Prosecutor,
High Court of Madras
Chennai-104.
- 3.The Superintendent,
Central Prison,
Kalapet, Puducherry.
- 4.The Judicial Magistrate -II,
Puducherry.



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A.D.JAGADISH CHANDIRA, J

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