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Crl.O.P.No.18368 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2023

CORAM

THE HON'BLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.18368 of 2023

Agilan @ Agil

...Petitioner

Vs.

The State Rep by
The Inspector of Police,
Krishnagiri Taluk Police Station,
Krishnagiri District.
(Crime No.394 of 2022).
...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Cr.No.394 of 2022 on the file of respondent herein.

For Petitioner : Mr.T.Elumalai
For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 03.07.2023 for the offence punishable under Sections 147, 148, 435, 506(ii) of IPC and Section 9(B)(3)(b) of Indian Explosive Act, 1884 in Crime No.394 of 2022 on the file of the respondent police, seeks bail.

2. The learned counsel for the petitioner submitted that, petitioner is falsely implicated as an accused in Crime No.394 of 2022 for the offences punishable under Sections 147, 148, 435, 506(ii) of IPC and Section 9(B)(3)(b) of Indian Explosive Act, 1884. Petitioner is innocent. Petitioner is in judicial custody from 03.07.2023. It is the submission of the learned counsel for the petitioner that, police are continuously foisting false cases against the petitioner. In support of his submission, he brought to the notice of this Court, bail granted to the petitioner in Crl.O.P.No.17005 of 2023, registered under Section 7(i)(a) of Criminal Law Amendment Act, 2005. When there is no such provision, the fact that, a case was registered Section 7(i)(a) of Criminal Law Amendment Act, 2005, shows that, police is interested in foisting false case against



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the petitioner. He also referred to the order of this Court in Crl.O.P.No.3326 of 2023, where 3rd accused was granted anticipatory bail in this case. He further submitted that, offence under Section 435 of IPC is bailable and Section 9(B)(3)(b) of Indian Explosive Act, 1884, deals with selling, delivery, dispatching of any explosive in contravention of the provisions of clause (b) of Section 6-A. Even as per the first information report allegations, it is not a case of selling or delivering or dispatching of any explosive substance. There is no injury caused to anyone in the incident and therefore, Section 9(B)(3)(b) of Indian Explosive Act, 1884 is not attracted. Therefore, he prays for grant of bail to the petitioner.

3. Learned Additional Public Prosecutor, opposed this petition, on the ground, petitioner is involved in multiple cases resulting in registration of the following cases in Crime Nos.65 of 2021, 665 of 2020, 207 of 2017, 99 of 2023 and 128 of 2022. The investigation in this case is not completed. Thus, he prays for dismissal of this petition.



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4. Considered the submissions and perused the records.

5. The first information report allegations show that, on 08.12.2022, when the defacto complainant and her family members were in their house, at about 9.15 p.m., 10 persons came in motorcycles and threw petrol bomb. They are Akilan, Manju, Nithish @ G.T.Saina, Monish, Akash and other persons. They also made death threat to do way them and left the place of incident. As a result of throwing petrol bomb, front door, CCTV camera and electricity wire were damaged.

5.1. When this Court enquired the learned Additional Public Prosecutor, as to what is the extent of damage caused and whether value of the damage is assessed, he replied that so far value is not assessed.

6. Considering the nature of the allegations and that offence under Section 435 of IPC is bailable and it is doubtful as to whether the offence under Section 9(B)(3)(b) of Indian Explosive Act, 1884 is attracted in the facts of this case and that material part of the investigation might have been over by this time, this Court is inclined to grant bail to the petitioner



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with conditions and the petitioner is ordered to be released on bail on their executing a bond for a sum of **Rs.25,000/-** (Rupees Twenty Five Thousand only) with **two sureties**, each for a like sum to the satisfaction of the **learned Judicial Magistrate No.II, Krishnagiri** 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 respondent police daily morning at 10.00 a.m., and 5.00 p.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].



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[f] If the accused thereafter absconds, a fresh FIR
can be registered under Section 229A IPC.

11.08.2023

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To

- 1.The Judicial Magistrate No.II,
Krishnagiri.
- 2.The Inspector of Police,
Krishnagiri Taluk Police Station,
Krishnagiri District.
- 3.The Central Jail,
Salem.
- 4.The Public Prosecutor,
High Court of Madras



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G.CHANDRASEKHARAN. J.

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