



Crl.O.P.No. 31463 of 2022

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DATED: 05.01.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.31463 of 2022

1. A.Samundeeswari,
W/o. Sivanesan
2. Sivanesan,
S/o. Varadarajan

.. Petitioners

Vs.

State represented by
The Inspector of Police,
Walaja Police Station,
Vellore Dt.
(Crime No.376 of 2022)

.. Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioners on bail in Crime No.376 of 2022 on the file of respondent police.



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For Petitioners : Mr.M.Jaikumar
For Respondent : Mr.S.Vinoth Kumar
Govt. Advocate (Crl. Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 06.11.2022 for the alleged offence under Sections 174 Cr.P.C. altered into Sec.306 I.P.C. in Crime No.376 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that in view of previous enmity between deceased and the petitioners and also due to a civil dispute, the petitioners said to have given sexual torture and threatened the deceased to withdraw the civil suit, resulting in which, the deceased had written suicidal note and committed suicide by way of hanging. Hence, the complaint.



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3. The learned counsel for the petitioners submitted that they have not at all committed any offence as alleged by the respondent police and they are no way connected with the offence. He would submit that the 1st petitioner is a widow and having minor children and the 2nd petitioner is visually impaired person having disability of 70%, and to that effect, he produced copy of orders issued by the concerned authorities. He would further submit that the petitioners are neighbour of deceased person and as the 1st petitioner filed a suit for permanent injunction against deceased Sasikala and her family members, the defacto complainant lodged a false complaint against her. He would submit that during pendency of suit, Sasikala committed suicide due to her family dispute, for which, the petitioners are no way connected with the suicide. He would submit that investigation is almost completed and that the petitioners have been suffering incarceration for more than 59 days from 06.11.2022. Hence, he prayed to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for



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respondent would submit that due to a civil dispute between the deceased and the petitioners, they have threatened the deceased to withdraw the civil suit and also gave sexual torture to the deceased, and due to which the deceased write a suicidal note and committed suicide by way of hanging. He would also submit that if they are released on bail, they will tamper the witnesses and hamper the investigation and the investigation is not yet completed. Hence, he vehemently opposed to grant bail to the petitioner.

5. On seeing the facts, it would reveals that as per the suicidal note, the petitioners are the reasons for causing death of deceased lady, who was survived with minor children and as per F.I.R. allegation, due to a civil dispute, the petitioners gave sexual torture to the deceased, thereby, the deceased written a suicidal note and committed suicide by way of hanging.

6. So far as the 1st petitioner is concerned, considering the facts and circumstances and also the fact that the petitioners are the reasons for committing suicide of deceased, this court is not inclined to grant bail to the 1st petitioner.



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7. Considering the facts and circumstances and also the fact that the 2nd petitioner being visually impaired person having 70% of disability, and the investigation is almost completed and considering the period of incarceration undergone by the 2nd petitioner, this Court is inclined to grant bail to the 2nd petitioner with certain conditions.

8. Accordingly, the 2nd petitioner is ordered to be released on bail on executing his separate bonds for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, for a like sum to the satisfaction of the *learned Judicial Magistrate-II, Walaja*, 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 2nd petitioner shall appear before the



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respondent police on every Tuesday and Saturday at 10.30 a.m. for the period of three months.

(c) the 2nd petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the 2nd petitioner shall not abscond 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 2nd petitioner in accordance with law as if the conditions have been imposed and the 2nd 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]***; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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To

- 1.The Judicial Magistrate-II, Walaja.
- 2.The Inspector of Police,
Walaja Police Station,
Vellore Dt.
3. The Superintendent of Prison,
Central Prison, Vellore.
- 4.The Public Prosecutor,
High Court, Madras



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T.V.THAMILSELVI, J.

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