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Crl.O.P.Nos.27366 & 28555 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.O.P.Nos.27366 & 28555 of 2023

Alageswaran C/o. Boominathan

... Petitioner/Accused
in Crl.O.P.No.27366 of 2023

Senthil Kumar S/o. Chinnappan

... Petitioner/Accused
in Crl.O.P.No.28555 of 2023

Vs.

The State represented by
The Inspector of Police,
Virudhachalam Police Station,
Cuddalore District.

(Crime No.435 of 2023)

... Respondent in both Crl.O.Ps

PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C.,
prayed to enlarge the petitioners on bail in Crime No.435 of 2023 on the file
of the respondent.

(In Crl.O.P.No.27366 of 2023)

For Petitioner : Mr.J.Prakasam

For Respondent : Mr.R.Kishore Kumar
Government Advocate (Crl. Side)



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(In Crl.O.P.No.28555 of 2023)

For Petitioner : Mr.P.Parthipan

For Respondent : Mr.R.Kishore Kumar
Government Advocate (Crl. Side)

COMMON ORDER

A12 has filed Crl.O.P.No.27366 of 2023 and A13 has filed Crl.O.P.No.28555 of 2023, both in Crime No.435 of 2023, registered for the offences punishable under Sections 147, 148, 341, 294(b), 324, 307 of IPC and Sections 25(1B) a, 27(1) of Arms Act, 1959, and Section 3(1) of Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992, but to correct the offence, memo has been filed in both Crl.O.Ps., today, seek bail.

2.Before issuing the order copy, the Registry may carryout the correction in the offences from Sections 147, 148, 341, 294(b), 324, 307 of IPC and Sections 25(1B) a, 27(1) of Arms Act, 1959, and Section 3(1) of Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992, to Sections 120(b), 147, 148, 341, 294(b), 324, 307 of IPC and Sections 25(1B) a, 27(1) of Arms Act, 1959, and Section 3(1) of Tamil Nadu Public Property



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(Prevention of Damage & Loss) Act, 1992.

3.The petitioner in Crl.O.P.No.27366 of 2023 had been remanded to custody on 23.09.2023 and the petitioner in Crl.O.P.No.28555 of 2023 had been taken into custody on 22.09.2023 for the offences punishable under Sections 120(b), 147, 148, 341, 294(b), 324, 307 of IPC and Sections 25(1B) a, 27(1) of Arms Act, 1959, and Section 3(1) of Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992.

4.It is the case of the prosecution that A9 who is the mother of A1 and A7, had contested a local body election against the brother off the defacto complainant. A9 lost the election.

5.It is stated that this was was cause for grievance of A9. Owing to that particular fact, she had instigated the other accused. In this case, it is stated that A1 had approached his friend A2 who in turn approached A10 who in turn went to A14 for purchase of a gun and the weapon was used for causing the offence under Section 307 of IPC against the defacto complainant.



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6.The learned counsel for the petitioner in both the petitions stated that the names are not reflected in FIR and there is no direct overt act as against the petitioner. It is therefore stated that these facts should be considered for grant of bail, and also taking into consideration the period of incarceration for more than 80 days.

7.The earlier application seeking bail in Crl.O.P.Nos.25153 and 24765 of 2023 was dismissed on 09.11.2023. The change in circumstance is that investigation has been practically completed and so far as these petitioners are concerned, the respondent have collected information about transfer of money from G-Pay account and also had recovered the gun, which had been used and had also determined the actual overt acts against these petitioners herein.

8.Taking all those factors into consideration and the period of incarceration, I am inclined to grant bail to the petitioner in both the petitions subject to the following conditions:



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9. Accordingly, the petitioners in both Crl.O.Ps are ordered to be released on bail on condition to execute separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate No.I, Virudhachalam, 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 petitioners shall report before the respondent police everyday at 10.30 a.m., until further orders.

[c] the petitioners shall not abscond either during investigation or trial.

[d] the petitioners 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 petitioners 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



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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.

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To

- 1.The Judicial Magistrate No.I, Virudhachalam.
- 2.The Inspector of Police,
Virudhachalam Police Station,
Cuddalore District.
- 3.The Central Prison, Cuddalore.
4. The Public Prosecutor,
High Court of Madras.

C.V.KARTHIKEYAN, J.



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