



Crl.O.P.(MD) No.23565 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

[Criminal Jurisdiction]

Date : 28.12.2023

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

Crl.O.P.(MD) No.23565 of 2023

1. Murugesan

2. Parsanth @ Prasath

... Petitioners/ Accused 1 & 2

Vs

The State rep. by
The Inspector of Police,
Saptur Police Station,
Madurai District.
(Crime No.187 of 2003)

..Respondent/ Complainant

For Petitioners : Mrs.C.GEETHA, Advocate

For Respondent : Mr.B.THANGA ARAVINTH
Government Advocate(Crl.Side)

PRAYER: Criminal Original Petition filed under Section 439 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant bail to the petitioner in Crime No.187 of 2023 on the file of the respondent police.

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioners on 26.12.2023 under Section 439 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant bail.



Crl.O.P.(MD) No.23565 of 2023

WEB COPY

2. The petitioners/A1 and A2 were arrested and remanded to judicial custody on 03.12.2023 for the alleged offences punishable under Sections 294(b), 353, 307 of the Indian Penal Code, 1860' (Act No.45 of 1860) [henceforth 'IPC'] and Section 3(1) of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992 ['TNPPDL Act'] in Crime No.187 of 2023, on the file of the respondent police.

3. The defacto complainant is the Grade-I Police Constable of Peraiyur All Women Police Station. The case of the prosecution is that on 02.12.2023 at about 08.40 p.m., when cultural program was going on at Kethuvarpatti Village, Peraiyur Taluk, police peoples were on duty; that some persons disrupted the program and had caused nuisance; that hence, the police were dispersing them from the place; that at that time, the accused persons have come towards the police jeep and abused the defacto complainant in filthy words; that all of a sudden, A1 has tried to assault defacto complainant with iron rod, which was thwarted; theat then A1 thrown the iron rod on the front side of the jeep and damaged the front side mirror; and that A2 to A4 pelted stones on the jeep and damaged the side doors. Hence, the case.

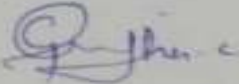
4. The learned counsel for the petitioners seeks permission of this Court to withdraw this Criminal Original Petition in so far as the first petitioner/A1 is concerned. She has also made an endorsement in the case file to that effect and a scanned reproduction of the same is as follows:



Crl.O.P.(MD) No.23565 of 2023

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I may be permitted to
not press
~~for admission~~ this bail petition
in so far as the
1st Petitioner / A1.


Greetha - C 4334/A1
Counsel for Petitioner.
Call 8243565206

5. She submitted that the second petitioner/A2 is innocent and a false case has been foisted against him. She further submitted that no one sustained injuries in the said occurrence and the second petitioner/A2 is in judicial custody since 03.12.2023. She further submitted that the second petitioner/A2 has not pelted any stones on the jeep of the defacto complainant and some unknown persons pelted the stones. She therefore prayed to grant bail to the second petitioner.

6. The learned Additional Public Prosecutor appearing for the respondent Police submitted that due to some quarrel arose during the time when the cultural program were going on in the village, all the accused persons attempted to assault the Police personnel and caused damage to the front side mirror of the police vehicle.



Crl.O.P.(MD) No.23565 of 2023

Further submitted that if bail is granted to the second petitioner/ A2, he would create law and order issues in the locality. Accordingly, he prayed to dismiss this Criminal Original Petition.

7. Heard on both sides. This Court has perused the records.

8. Reading the submission made by the learned counsel for the petitioners in respect of withdrawal of this Criminal Original Petition insofar as the first petitioner/ A1 is concerned and the endorsement made by her in the case file to that effect, this Criminal Original Petition insofar as the first petitioner/ A1 is concerned is dismissed as withdrawn. This Court only considers the case of the second petitioner/ A2.

9. Admittedly, no one sustained injuries in the said occurrence. According to the prosecution, the second petitioner/ A2 along with others have caused damage to the front glass of the police vehicle. The second petitioner/ A2 has permanent residence and has deep roots in the Society. Hence, there is less possibility of absconding.

10. Considering the above, considering the facts and circumstances of the case and the period of incarceration, this Court does incline to grant bail to the second petitioner/ A2, however, subject to certain conditions. Accordingly, bail is granted to the second petitioner/ A2 subject to the following conditions:



Crl.O.P.(MD) No.23565 of 2023

WEB COPY

(i) The second petitioner/A2 shall execute a bond for Rs.10,000/- (Rupees Ten Thousand only) and furnish two sureties each for a like sum of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the learned Judicial Magistrate, Peraiyur;

(ii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Judicial Magistrate, Peraiyur shall obtain a copy of any one of identity proofs to ensure their identity;

(iii) The second petitioner/A2 shall appear and sign before the respondent police daily at 10.00 a.m. and 5.00 p.m. until further orders;

(iv) the second petitioner/ A2 shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) to the credit of Crime No.187 of 2023 on the file of the respondent police pending before the learned Judicial Magistrate, Peraiyur without prejudice to his rights and defence;

(v) The second petitioner/ A2 shall not either directly or indirectly cause any threat to the defacto complianant and witnesses;

(vi) On breach of any of the aforementioned conditions, the learned Judicial Magistrate is entitled to pass appropriate orders against the petitioner

(s) in accordance with law as if the aforementioned conditions are imposed by



Crl.O.P.(MD) No.23565 of 2023

themselves as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005)13 SCC 283].

11. Resultantly,

(i) This Criminal Original Petition is allowed insofar as the second petitioner/ A2 is concerned, subject to the conditions stated supra; and

(ii) Criminal Original Petition is dismissed as withdrawn in so far as the first petitioner/ A1 is concerned.

sd/-
28/12/2023

/ TRUE COPY /

29/12/2023
Sub-Assistant Registrar
(C.O)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV
TO

1 THE JUDICIAL MAGISTRATE,
PERAIYUR.

2 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, MADURAI DISTRICT.

3 THE OFFICER INCHARGE,
SUB-JAIL, USILAMPATTI.

4 THE INSPECTOR OF POLICE,
SAPTUR POLICE STATION,
MADURAI DISTRICT.

<https://www.hmc.tn.gov.in/judis>



Crl.O.P.(MD) No.23565 of 2023

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.R.MAHESWARAN, Advocate (SR-18384[I] dated 28/12/2023)

ORDER
IN
CRL OP(MD) No.23565 of 2023
Date :28/12/2023

SA/SAR. /29.12.2023/7P/7C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.