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Crl.O.P.No.355 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 11.01.2024**

CORAM

**THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH**

**Crl.O.P.No.355 of 2024**

Ezhilarasan

... Petitioner

Vs.

State represented by  
Inspector of Police,  
J3 Guindy Police Station,  
Chennai.  
(Crime No.849 of 2023)

... Respondent

**Prayer:** Criminal Original Petition is filed under Section 439 of the Code of Criminal Procedure to enlarge the petitioner on bail in Crime No.849 of 2023 on the file of the Inspector of Police, J3 Guindy Police Station, Chennai.

|                |                                                    |
|----------------|----------------------------------------------------|
| For Petitioner | : Mr.S.Chandrasekar                                |
| For Respondent | : Mr.A.Gopinath,<br>Government Advocate (Crl.Side) |

## **ORDER**

The petitioner who was arrayed as A1 in the FIR was arrested and remanded to judicial custody on 08.12.2023. He seeks for bail in the Crime No.849 of 2023 for alleged offence under Section 304(II) of IPC.



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2. The case of the prosecution is that the defacto complainant's son was working in the petrol bunk. There were heavy rains on 04.12.2023 and all of a sudden, the entire petrol bunk caved in. In that incident, the petitioner's son went missing. Based on the complaint, a man missing FIR was registered in Crime No.849 of 2023 on 05.12.2023. Subsequently, an alteration report was filed and the offence was altered to Section 304(II) of IPC. There are totally 6 accused persons in this case and the petitioner has been arrayed as A1. It is alleged that there was negligence on the part of the petitioner as of which the incident had taken place.

3. The learned Government Advocate appearing on behalf of the respondent police submitted that out of 6 accused persons, A1, A2 and A4 were arrested and the other accused persons are absconding. A4 filed a bail petition before this Court in Crl.O.P.No.29263 of 2023 and the bail was granted by imposing certain conditions by order dated 29.12.2023. A2 also filed a bail petition before this Court in Crl.O.P.No.28677 of 2023 and the bail was granted by imposing certain conditions by order dated 09.01.2024.

4. This Court carefully considered the submissions made on either



side and the materials available on record.

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5. In the instant case, the entire incident had taken place due to abnormal rains that poured over Chennai resulting in inundation of almost entire Chennai on 4<sup>th</sup> and 5<sup>th</sup> of December 2023. It is more in the nature of natural calamity. Considering the fact that the petitioner is suffering incarceration from 08.12.2023 and the fact that this Court had already granted bail to the co-accused, this Court is inclined to grant bail to the petitioner subject to the following conditions:

- (i) accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the IX Metropolitan Magistrate, Saidapet and on further conditions that:
- (ii) the petitioner shall report before the IX Metropolitan Magistrate, Saidapet daily at 10.00 A.M. until further orders.
- (iii) the petitioner shall not commit any offences of similar nature.
- (iv) the petitioner shall not abscond either during investigation or trial.
- (v) the petitioner shall not tamper with evidence or witness either during investigation or trial.



(vi) On breach of any of the aforesaid conditions, the learned Judicial 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 the case of *P.K.Shaji vs. State of Kerala* reported in [(2005) AIR SCW 5560].

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

**11.01.2024**

sk

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

**Note: Issue order copy today**

To



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1. The Metropolitan Magistrate,  
No.IX, Saidapet.
2. The Inspector of Police,  
J3 Guindy Police Station,  
Chennai.
3. The Superintendent,  
Central Prison, PUzhal, Chennai.
4. The Public Prosecutor,  
High Court, Madras.



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**N. ANAND VENKATESH, J.**

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