



Crl.O.P.No.906 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2024

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

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1.Masilamani S/o. Krishnan
2.Pragalanathan S/o. Raji
3.Dhinesh S/o. Arumugam
4.Vijay S/o. Gopi

...Petitioners/Accused-1 to 3 & 7

Vs.

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

(Crime No.386 of 2023)

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioners on bail concerned in S.C.No.230 of 2023 on the file of the I Additional District and Sessions Judge, Cuddalore, on such terms and conditions.

For Petitioners : Mr.D.Ashokkumar

For Respondent : Mr.L.Baskaran
Government Advocate (Crl. Side)



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ORDER

The petitioners/A1 to A3 & A7, who had been arrested and remanded to custody on 29.06.2023, seek bail in Crime No.386 of 2023, registered by the respondent police for the offences under Sections 147, 148, 341, 294(b), 302, 120(B), 342, 352, 506(ii), 149, 109 of IPC and Section 4 of TNPHW Act, 2002.

2.The petitioners were detained under Tamil Nadu Act 14 of 1982. It is stated that subsequently the said detention had been revoked by an order dated 14.12.2023 by this Court.

3.It is stated that there are totally 25 accused and final report had been filed and the same had been taken cognizance by the I Additional District and Sessions Judge, Cuddalore as S.C.No.230 of 2023.

4.It is seen that by an order dated 12.01.2024 and 19.01.2024, the accused 10, 11, 17, 24, 12, 13, 23, 1615, 18-22, 14 and 6 had been granted bail by this Court. The learned counsel for the petitioners seek



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parity and also seek bail.

5.A strong objection had been raised by the learned Government Advocate (Crl. Side) for the respondent who has also filed counter affidavit in each of the matters and even before entering into discussion on the facts, the main ground seeking rejection of these applications is that there is still picketing in the area owing to the murder committed which was retaliatory in nature.

6.It is stated that about 50 police persons are continuously monitoring the situation in the village and it is further contended that if any of these petitioners are granted relief, there might be a possibility of law and order situation arising if these petitioners are permitted to stay in that particular area.

7.It is the case of the prosecution that Crime No.386 of 2023 had been registered on 27.06.2023 for the offence under Sections 147, 148, 341, 294(b), 303, 302 IPC stating that about three years back,



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consequent to some group clashes between two different groups in the village at Gundu Uppalavadi in Cuddalore District, the husband of the defacto complainant is alleged to have committed the murder of the brother of the 1st accused. Thereafter, her husband had shifted his location but after sometime he had come back to his village. It is stated that this particular information was given by A25, primarily to the 1st accused and to those who were also directly affected by the murder of the brother of the 1st accused.

8.It is stated that owing to previous motive, which the 1st accused had harboured against the husband of the defacto complainant, and the learned counsel for the petitioners states that they constitute practically everyone in the village, had gathered and had surrounded the husband of the defacto complainant, had restrained her and her son and also a motorcycle, which was coming across on the way and committed murder on the husband of her husband.

9.In the counter affidavit filed by the respondent, it had been stated



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that during the course of such violent act of murder, the accused had mutilated the face of the deceased completely and all the accused had run away from the place of occurrence.

10.It is the case of the learned Government Advocate (Crl. Side) for the respondent that there are five primary witnesses namely the defacto complainant, her son and other three independent witnesses and it is stated that the said witnesses had identified that A1 to A24 were present at that particular spot. The role of A25 surfaced later on confession and taking that particular aspect into consideration, this Court had earlier granted bail to A25.

11.Taking into consideration the contention that there is also a life threat to the accused persons and also every possibility that they might abscond and would be threatened the witnesses, this Court had dismissed the earlier application seeking bail.

12.But however, it is seen from the records that the petitioners had



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been in custody for nearly about 200 days as on date. Investigation has been completed and final report had also been filed and it had been taken cognizance by the Judicial Magistrate and it had also been committed to the Court of Sessions and all the accused had been secured and now, they have to given an opportunity to face trial. Two of the accused had also been granted bail.

13.Balancing all these factors, I am inclined to grant bail to the petitioners and I will also take recourse Section 110 Cr.P.C., from the bond to be executed by the petitioners herein and sureties to be executed. I would also direct each one of the petitioners to execute bond as contemplated under Section 110 of Cr.P.C.

14.But however, the statement of the learned Government Advocate that, if the petitioners are permitted to be present in Cuddalore, there would be further law and order situation which would arise, I would direct the petitioners to stay at Namakkal District. They must execute a bond under Section 110 Cr.P.C, before the Executive Magistrate/District



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Revenue Officer at Namakkal. If there is breach of any of the terms of the bond under Section 110 of Cr.P.C., then the Executive Magistrate may apply to the jurisdictional Magistrate for passing appropriate orders.

15. Accordingly, the petitioners 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 I Additional District and Sessions Judge, Cuddalore, 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 may appear before the Court through Video Conference and I would also request the Principal District and Sessions Judge, Namakkal to enable the petitioners to appear through Video Conference before the I Additional District and Sessions Judge, Cuddalore, for the hearing dates.

[c] the petitioners shall stay at Namakkal District and report before the Namakkal Town Police Station, everyday at 10.30 a.m., till



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15.02.2024 and thereafter, the petitioners are directed to appear before the I Additional District and Sessions Court, Cuddalore, where trial is to take place, on every Monday at 10.30 a.m., apart from the Court hearing dates.

[d] The petitioners shall not abscond either during investigation or trial.

[e] The petitioners shall not tamper with evidence or witness either during investigation or trial.

[f] 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 Kerala [(2005)AIR SCW 5560].

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

23.01.2024

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To

1. The I Additional District and Sessions Judge, Cuddalore.
2. The Central Prison, Cuddalore.
3. The Inspector of Police,
Cuddalore New Town Police Station,
Cuddalore District.
4. The Public Prosecutor,
High Court of Madras.

C.V.KARTHIKEYAN. J.

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