



Crl.O.P.No.3702 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2024

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

Crl.O.P.No.3702 of 2024
and Crl.M.P.No.3517 of 2024

1.Kotravel
2.K.Vishalakshmi

..Petitioners

Vs.

State represented by
The Inspector of Police,
Kangeyam Police Station,
Tiruppur.
(Crime No.668 of 2023).

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioners on bail in Crime No.668 of 2023 on the file of the respondent police.

For petitioners : Mr.T.N.Rajagopal for
Mr.P.Muthukumarasamy

For Intervenor : Mr.Shivakumar for
Mr.S.Sarachandran

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



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ORDER

The petitioners, who were arrested and remanded to judicial custody on 28.12.2023 for the offences registered by the respondent Police under Sections 120(b), 364, 302 and 201 IPC in Crime No.668 of 2023 on the file of the respondent, seek bail.

2.The Principal District Judge, Tiruppur, had forwarded a report relating to C.C.No.204 of 2014 pending before the Judicial Magistrate, Kangeyam and also a report from the learned Judicial Magistrate, wherein, an assurance had been held out that if the accused produced defence witnesses without any delay, efforts would be taken to complete the trial in C.C.No.204 of 2014 in April 2024.

3.It appears that there has been a civil dispute with respect to 25 acres of land between A1 and his sister, in all respects represented by the deceased. The deceased is an elderly person aged about 80 years.

4. It is also the allegation of the learned counsel for the intervenor that there are allegations of forgery and false documents were produced by A1 before the Civil Court and it is stated that finally, the civil litigation has ended in favour of the deceased side. Quite parallelly, the deceased had also lodged a separate complaint on which FIR had been



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lodged and C.C.No.204 of 2014 is now pending trial before the Jurisdictional Magistrate Court.

5.It is stated that this incident of murder of the deceased happened immediately after he had tendered evidence in C.C.No.204 of 2014. This would also indicate that there is an oblique motive and if there are any other witnesses to tender evidence in C.C.No.204 of 2014, they may not come forward to voluntarily depose evidence. It is stated that the deceased had also filed an application before this Court seeking police protection and had also necessity to file a contempt petition, since police protection was not adequately provided.

6.A counter affidavit has been filed by the respondent after setting out the facts of the case, it had been stated that investigation is not yet completed. It had been further stated that the brother of the second petitioner, namely Balasubramaniam had threatened one Saravanan on 07.03.2024. That Saravanan had taken on lease the land owned by the deceased and he is a witness in C.C.No.204 of 2014 and he is also a witness in Crime No.668 of 2023. C.S.R.No.131 of 2024 had been filed.

7.The learned counsel for the petitioner however made a fervent plea stating that both the spouses are in custody from 01.01.2024 and



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sough permission of this Court to withdraw this criminal original petition so far as the first petitioner is concerned. It is also stated that so far as the second petitioner is concerned, she has been young children to take care and it only be appropriate that some consideration will shown to her.

8.But however, in view of this specific stand by the Inspector of Police, further restrictions will have to be made on the second respondent that she should file an affidavit at the time of executing the sureties and also an affidavit by her brother namely Balasubramaniam, stating that they would not interfere with due process of law and would not threaten any of the witnesses and also particularly the named person Saranvanan.

9.The Inspector of Police, Kangeyam Police Station is directed to, if there is a material, register the First Information Report in C.S.R.No.131 of 2024, after following due procedure.

10.Placing these restrictions and also impressing upon the respondent to provide necessary police protection to the witnesses in FIR in Crime No.668 of 2023, this Court is inclined to grant bail to the second petitioner subject to the following conditions and this Court is not inclined to grant bail to the first petitioner.

11.Accordingly, the second 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 learned Judicial Magistrate, Kangeyam 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] both the second petitioner and her brother namely Balasubramaniam, shall file an affidavit of undertaking before the trial Court concerned.

[c] the second petitioner shall report before the respondent police everyday at 10.30 a.m., until further orders.

[d] the second petitioner shall not abscond either during investigation or trial.

[e] the second petitioner 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 second petitioner in accordance with law as if the conditions have been imposed and the second petitioner released on bail by the learned Magistrate/Trial Court himself



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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.

12. The learned Principal Sessions Judge, Tiruppur, may also take note of the fact that the bail application of the first petitioner, Kotravel, had been dismissed as only withdrawn by the counsel and may take into consideration all circumstances before exercising discretion if any application seeking bail is filed and brought up for consideration.

13. Accordingly, this Criminal Original Petition is ordered and consequently, connected Miscellaneous Petition is also allowed.

18.03.2024

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To

1. The Judicial Magistrate, Kangeyam.
2. The Central Prison, Coimbatore.
3. The Inspector of Police,
Kangeyam Police Station,



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Tiruppur.

4.The Public Prosecutor, High Court of Madras.

C.V.KARTHIKEYAN. J.

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