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Crl.M.P.No. 5692 of 2024
in Crl.O.P.No.1691 of 2024

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T.V. THAMILSELVI, J.

This Criminal Miscellaneous Petition has been filed to recall the order dated 23.02.2024 passed by this court in Crl.O.P.No.1691 of 2024 and to hear the arguments on the side of intervenor/defacto complainant.

2. Today, when the matter taken up for hearing, Mr.Manuraj, learned counsel for petitioner/intervenor appeared and submitted that the other accused A1, A6 and A7 are son-in-law, brother of deceased and daughter of deceased and they are family members, as such they are hire-linkers and they have committed murder of his father. So, the intervenor family and deceased family are close relatives and taking advantage of close proximity, the 2nd respondent came out on bail and he may threaten the witnesses and tamper the evidence and also he had a fear that he would cause some interference in the trial proceedings. Hence, he raised objections. Furthermore, there was no direction to the trial court to dispose the case as early as possible and so, he raised strong objections for granting bail to the petitioner.



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3. The learned counsel for 2nd respondent would submit that even at the earlier occasion, while granting bail, certain condition was imposed and he complied the order and appeared before the respondent police regularly without any default. Hence, he prayed to confirm the bail order, since because he was in custody for more than 1 year 3 months.

4. On considering both side submissions, at the earlier occasion, this court granted bail to the 2nd respondent and now on considering the submissions of Petitioner seems to be justifiable one, this Court is inclined to allow this petition. Accordingly, the order passed by this court dated 23.02.2024 is recalled. Today, when the matter taken up for hearing, submissions of both side heard and passed the order as follows :-

ORDER

The petitioner, who was arrested and remanded to judicial custody on 30.12.2022 for the alleged offences punishable under Sections 174 Cr.P.C., and subsequently it was altered into Sec. 147, 302, 363, 120-B, 201, 364 r/w 109 and 34 of I.P.C. Act in S.C.No. 159 of 2023, pending trial on the file of Principal District Court, Chengalpet in Cr.No.572 of 2022, on the file of the respondent police, seeks bail.



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2. The case of the prosecution is that the defacto complainant's father Mr.D.Masthan, aged about 66 years appointed by the State Government as Vice-Chairman of Tamil Nadu Minorities. The petitioner is the younger brother of deceased. The petitioner's son-in-law is A1, who had received a sum of Rs.15 lakhs from the deceased and he did not repay the amount. However, due to a property dispute as well as money dispute, on 21.12.2022 at about 10.30 p.m. when the deceased went to Chengalpattu along with Mr.Imran Basha (A1), who was driving the car and two other accused, while crossing Chengalpattu tollgate, at that time, A1's friends get into a car and they have closed the nose of deceased with a dowel, thereby he died due to shortness of breath. Thereafter, he was taken to a hospital and the doctors stated that he brought dead. Accordingly, the complaint was registered against the petitioner.

3. The learned counsel for the petitioner submitted that there is no property dispute between the petitioner and his uncle and all are family members. He would submit that his uncle was the pillar of petitioner and his wife's family and hence, he never did this crime. He would submit that he is an innocent person and he has not at all committed any offence as alleged by the respondent police and he is no way connected with the said



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occurrence. He would submit that there is no role of the petitioner in the alleged offence and he has been falsely implicated as accused in this case.

He would further submit that the investigation is almost completed and that the petitioner has been suffering incarceration for more than 1 year 3 months from 30.12.2022. He would also submit that the co-accused were already released on bail. Hence, he prayed to grant bail to the petitioner.

4. The learned counsel for intervenor would submit that he has lodged a complaint over the suspicious death of his father in the early hours on 22.12.2022 after he left out of his residence at Royapettah with his nephew-in-law A1 on the night of 21.12.2022, which was registered under Sec.174 of Cr.P.C. Upon investigation, it reveals that on the date of occurrence, due to a family dispute as well as money dispute, while travelling in a car from Chennai to Trichy, A1 with the help of other accused, they closed the nose of deceased with a dowel, thereby he died due to suffocation, however, they have created a scene that he died due to heart attack. Accordingly, in the alteration report, the respondent police found the death of his father to be a case of murder and arraigned A1 to A5 and charged them for the aforesaid offences and the respondent police also confirmed the involvement of petitioner, younger brother of deceased and



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father-in-law of A1 in the criminal conspiracy surrounding the murder of his father and remanded him into custody. Hence, he prayed to dismiss this petition.

5. The learned Government Advocate (Crl. Side) appearing for respondent would submit that totally, there are 7 accused involved in this case and the petitioner is arrayed as A1. He would submit that this petitioner along with other accused, who were get into a car subsequently, joined together, due to a dispute over the family property as well as money dispute, while travelling in a car, they closed the nose of deceased with a dowel, thereby due to suffocation, he died, however, they have created a scene that he died due to heart attack. So, it is a pre-planned murder and all the accused were arrested and this petitioner is the prime accused. He would submit that the final report was filed before the trial court and the same was taken on file in S.C.No.159 of 2023 and the co-accused were released on bail. He would also submit that if he is released on bail, he may abscond and he would tamper the witnesses and hamper the investigation. Hence, he vehemently opposed to grant bail to the petitioner.

6. On considering the fact that the petitioner was arrested for the aforesaid offence and statement was recorded from the deceased,



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investigation almost completed and also considering the period of incarceration undergone by the petitioner, this Court granted bail to the petitioner on 23.02.2024 and based on that order, the petitioner was released on bail and now on considering both side submissions, this Court is inclined to impose further condition that:

(a) the petitioner shall stay at Chenglepet and report before the trial court on every Monday at 10.30 a.m. for another period of six months apart from court hearings without fail ;

(b) the petitioner shall not have any contact with the victim family until the completion of trial;

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioner shall not abscond 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner released on



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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]***; and;

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

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