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CrI.O.P.No.6672 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

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

CrI.O.P.No.6672 of 2024

1.Balu @ Balamurugan
2.Eswaran

..Petitioners

Vs.

State represented by
The Inspector of Police,
Nangavalli Police Station,
Salem District.
(Crime No.14 of 2024).

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.14 of 2024 on the file of the respondent police.

For Petitioner : Mr.M.Senthilkumar

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 26.01.2024 for the offences registered by the respondent Police under



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Sections 302, 379, 120(B) and 109 IPC in Crime No.14 of 2024 on the file of the respondent, seeks bail.

2.A1 is the servant of A2. A2 is the husband of the deceased. It is the case of the prosecution that owing to various disputes between A2 and the deceased, A2 had instigated A1 to murder the deceased. The murder was quite gruesome.

3.It is also stated that later the accused had also removed the thali of the deceased and also two other silver ornaments and had sold it. These jeweleries have been successfully recovered necessitating also including the provisions under Section 379 IPC.

4.This is the second application filed by the petitioner and the earlier application in Crl.O.P.No.3739 of 2024 seeking bail was dismissed by this Court on 27.02.2024. At that time, it had been noticed that the daughter of the deceased had filed an affidavit stating that there is no dispute between A2 who is her own father and the deceased who is her mother. But however, holding that this would indirectly means that the said daughter had been influenced, this Court had declined to grant bail to the petitioner.



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5. Thereafter, this petition was earlier listed on 19.03.2024. On that date, the following order passed:

A1 and A2 in Crime No.14 of 2024 registered under Section 302 and 379 IPC and remanded to custody on 26.01.2024, seek bail.

2.A1 is the servant of A2. A2 is the husband of the deceased. It is the case of the prosecution that owing to various disputes between A2 and the deceased, A2 had instigated A1 to murder the deceased. The murder was quite gruesome.

3.It is also stated that later the accused had also removed the thali of the deceased and also two other silver ornaments and had sold it. These jeweleries have been successfully recovered necessitating also including the provisions under Section 379 IPC.

4.The earlier application seeking bail in Crl.O.P.No.3739 of 2024 had been dismissed by this Court on 27.02.2024.

5.Even on that date, it had been observed that the investigation has been completed and final report had been filed through e-filing.

6.It is now stated that the final report had been taken cognizance by the learned Judicial Magistrate



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No.I, Mettur as P.R.C.No.5 of 2024 and later committed to the Court of Sessions as S.C.No.66 of 2024.

7.This Court had observed about the affidavit filed by the daughter of the deceased stating that there is no dispute between A2 and the deceased. It had also been observed that this affidavit, if it is taken note of would go to the root of the prosecution case so far as motive is concerned.

8. From the final report, it is now seen that the daughter has been sited as list witness No.7.

9.It is clear that there is some influence being exercised with respect to the investigation.

10.Let a copy of this order be forwarded to the Superintendent of Police, Salem who may examine the investigation done so far and examine whether further investigation should be done.

11.List on 21.03.2023 for filing amendment application.

6.The amendment application was subsequently filed in Crl.M.P.No.5313 of 2024 and that was ordered on 22.03.2024.

7.It is now stated that the investigation has been completed and the matter had also now been committed to the Court of Sessions in



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S.C.No.66 of 2024. I do not want to hold over the grant of bail since prosecution will have to establish the case during the course of the trial. It is only hoped that the witnesses who are on oath will speak to their conscience.

8.Taking all other factors into consideration and the period of incarceration, this Court is inclined to grant bail to the petitioner subject to the following conditions:

9.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 **learned Judicial Magistrate No.I, Mettur, Salem**, 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 petitioner shall report before the respondent police everyday at 10.30 a.m., until further orders.

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



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[d] the petitioner shall not tamper with evidence or witness 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 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].

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

26.03.2024

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To

- 1.The Judicial Magistrate No.I, Mettur, Salem.
2. The Central Prison, Salem.
- 3.The Inspector of Police,
Nangavalli Police Station,
Salem District.
- 4.The Public Prosecutor, High Court of Madras.



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C.V.KARTHIKEYAN. J.

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