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Crl.O.P.Nos.5979 & 6034 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2024

CORAM

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

Crl.O.P.Nos.5979 & 6034 of 2024

Fridijo Jacob

... Petitioner in Crl.O.P.No.5979 of 2024

1.Prakash

2.Zahir Ahamed

3.K.Anandraj

... Petitioners in Crl.O.P.No.6034 of 2024

Vs.

State represented by
Inspector of Police,
Lovedale Police Station,
Nilgiris.
Crime No.8 of 2024

... Respondent

COMMON PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C., prayed to enlarge the petitioners on bail in Crime No.8 of 2024 on the file of the respondent.

In both Crl.O.Ps.

For Petitioners : Mr.B.Arvind Srevatsa

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



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COMMON ORDER

The petitioners who were arrested and remanded to judicial custody on 07.02.2024 for the offences registered under Sections 288, 336, 377, 304(2) IPC in Crime No.8 of 2024 on the file of the respondent Police, seek bail.

2.The petitioner in Crl.O.P.No.5979 of 2024 is arrayed as A1 and the petitioners in Crl.O.P.No.6034 of 2024 are arrayed as A2 to A4.

3.The case of the prosecution is that the defacto complainant, Village Administrative Officer, had stated that in the land measuring 52 cents at Survey No.K/6/6/2, when construction was being taken place, there was a death of 6 persons/workers who were working under A2/contractor and there were also injuries to 6 other individuals who were also working under the said contractor. A1 is the owner of the land and he had engaged A2, the contractor.

4.It is the contention of the learned counsel for the petitioners that adjoining the land of A1 at a slightly elevated place, a municipal toilet had been constructed which was in a dilapidated stage. There has been a representation given to carry out necessary works for the safety of that



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particular building. But however, that building collapsed and it fell on the workers who were sitting on the land of A1. It was accidental and the actual cause according to the learned counsel for the petitioner is the collapse of the toilet which was already in a dilapidated stage.

5.It is further contended that the accident did not occur owing to any negligence on the part of the accused herein.

6.But however, the one factor which has to be stated is that all the deceased and all the injured were in the land of A1 only because they were workers under A2/contractor and it was in that place that the accident occurred. The statements made about the proximity between the cause and effect of the accident are issues to be examined only during the course of trial.

7.A3 is the Supervisor and A4 is the mason.

8.An affidavit had been filed by the brother of A1 in which he had undertaking as follows:

“(a) The 1st accused undertakes to pay a sum of Rs.2,00,000/- (Rupees Two Lakhs only) each to the family members of the 6 victims, namely (1) B.Baakiyalakshmi (2) S.Shakeela (3) S.Radha (4) S.Sangeetha (5) S.Muthulaksmi and (6) V.Uma to show his bonafides, within any time limit



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to be fixed by this Court.

(b) It is humbly submitted that the accused will cooperate for any mediation proceedings before the learned Deputy Commissioner of Labour (Camp Office at Coonoor) or before the Deputy Commisisoner of Labour, Head Office, Erode, once the same is initiated by the dependent/ family member of the victims mentioned in paragraph (a) above.

© The 1st accused undertakes to pay a sum of Rs.50,000/- (Rupees Fifty Thousand only) each to the 6 persons who got injured during the accident on 07.03.2024 namely (1) Nandakumar (2) Santhi (3) Thomas (4) Jayanthi (5) Magesh and (6) Gouthaman.

(d) I submit that Accused No.2 (Prakash) and Accused No.3(Zahir Ahamed), undertake to jointly provide work for a period of two years from today to one dependent/ family member/ nominee of the victims mentioned in paragraph (a) above.”

9.The learned Government Advocate (crl.side) stated that the accident had occurred at the site where the construction was going on in the land belonging to A1 and that again is an issue which will have to be examined during the course of trial for actual cause of the accident.



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10. Taking all the factors into consideration and the period of incarceration, I am inclined to grant bail to the petitioner subject to the following conditions:

11. 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, Coonoor 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 on everyday at 10.30 a.m., until further orders.

[c] The first accused should pay a total sum of Rs.12 lakhs to the credit of Crime No.8 of 2024 and on such deposit, the learned Judicial Magistrate, Coonoor, may hand it over in equal proportion of Rs.2,00,000/- each to the dependants of the family of the six deceased. A1 should also deposit a total sum of Rs.3 lakhs again to the credit of crime no.8 of 2024 and on such deposit, the learned Magistrate, Coonoor, may hand it over in equal proportion of Rs.50,000/- each to each one of the injured persons.

[d] It is made clear that this deposit does not indicate that the



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accused particularly A1 had admitted to any of the allegations and also not specifically admitted that the construction in his land was to direct cause for the accident which occurred. This will also not preclude the dependants of the deceased families and also of the injured to get further compensation in the manner known to law by approaching either the Deputy Commissioner of Labour (Camp Office at Coonoor) or the Deputy Commissioner of Labour, Head Office, Erode. If any compensation is ordered by those authorities, the compensation already paid shall be adjusted. The second accused, while executing sureties, must also undertake that he will provide work, for a period of 2 years to any one dependent /family member of the deceased.

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

[f] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[g] 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].

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

14.03.2024



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To

- 1.The Judicial Magistrate, Coonoor.
2. The Inspector of Police,
Lovedale Police Station,
Nilgiris.
- 3.The Sub Jail, Coonoor.
4. The Public Prosecutor, High Court of Madras.



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C.V.KARTHIKEYAN, J.

vkr

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