



Crl.O.P.Nos.6775 and 6777 of 2024

C.V.KARTHIKEYAN, J.

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The petitioner/A9 in Crl.O.P.No. 6775 of 2024 who was arrested on 28.10.2023 seeks bail in Crime No.234 of 2023 registered by the respondent police for the offences punishable under Sections 147,148, 341 and 302 of I.P.C and later, altered to Sections 120(b), 147, 148, 294(b), 341, 392, 506(ii) and 302 of I.P.C.

2. The petitioner/A4 in Crl.O.P.No. 6777 of 2024 is an accused in P.R.C.No.1 of 2024 in crime No.234 of 2024 on the file of the District Munsif cum Judicial Magistrate, Neyveli registered by the respondent police for the offences punishable under Sections 147, 148, 341 and 302 of I.P.C and later, altered to Sections 120(b), 147, 148, 294(b), 341, 392, 506(ii) and 302 of I.P.C and remanded to judicial custody on 31.10.2023, seeks bail.

3. It is the case of the prosecution that the father of the defacto complainant is running a biriyani shop called OK Biriyan Shop in Super Bazar, Neyveli. On 14.08.2023 A3 and A4 had demanded briyani without giving money and they threatened the deceased. He had then lodged a complaint against them. The next day all the accused persons came to the biriyani shop and assaulted the father of the defacto complainant. He again lodged a complaint. That complaint is still pending. Once again on 26.10.2023 the accused persons followed the deceased and murdered him. A4 is an accused in the earlier incident registered under Section 307 of I.P.C.



4. The learned counsel for A9 stated that the name of the petitioner does not find place in the First Information Report. It is stated that A9 had been implicated only on the basis of the confession of A4. It is contended by the learned counsel for the petitioner/A9 that the petitioner was not involved in the earlier offence under Section 307 IPC. Therefore, contended that a false case has been projected against him. It is also stated that there is no direct overt act as against the petitioner herein and that he is only an auto driver and pointed out that even according to the case of the prosecution, he was only sitting in the auto at the time of the incident.

5. The learned counsel for A4 pointed out the period of incarceration suffered by the petitioner who had been remanded to judicial custody from 31.10.2023 and also stated that the investigation has been completed and final report had also been filed. It is further contended that the son of the defacto complainant is the witness and that therefore, there cannot be any attempt to influence the said witness. It is also stated that the petitioner is prepared to stay at any place in the State and that he would not interfere with the investigation. It is also stated that subsequently, the matter has been committed to the Court of Sessions and charges will be framed.

6. It is further pointed out that the investigation had already been completed.

7. Strong objections have been raised by the learned Government Advocate (crl.side) who pointed out that there was an earlier case registered under Section 307 IPC wherein A4 was one of the accused. Thereafter, A4 had engaged A5 to A9 and it



is stated that A9 was an auto driver but he had prepared the entire plan and waiting in the auto and identified the deceased and also knew about the movement of the deceased and therefore, enabled the other accused, to commit the murder of the deceased. It is also contended that the Inspector of Police, who conducted investigation for the initial offence registered under Section 307 IPC had been transferred for conducting investigation in a lackadaisical manner and thereafter, Deputy Superintendent of Police has been appointed as the Investigating Officer.

8.It is stated that there is still tension prevailing in the said area and all the traders are still facing threat. It is stated that the respondent have to put up a out post police station to protect the interest of the traders to prevent any further retaliation if at all, the accused are released out on bail.

9.It is also stated that the investigation has been completed and final report had been taken cognizance as P.R.C.No.1 of 2024 by the learned District Munsif cum Judicial Magistrate, Neyveli.

10.The learned Government Advocate (crl.side) had raised very strong objection for grant of any relief to the petitioners.

11.I have carefully considered the contentions raised by the learned counsels for the petitioners and the learned Government Advocate (crl.side).

12.A4 was directly involved in the earlier offence registered under Section 307 IPC wherein he along with A1, A2 and A3 had attacked the defacto complainant



leading to the registration of the First Information Report under Section 307 IPC.

Thereafter, A4 had engaged A5 to A9 to further commit the murder of the defacto complainant. It is no doubt true that A9 who was an auto driver, was inside the auto but the fact is that he had pointed out the identity of the defacto complainant and the other accused had inflicted injuries on the head and stomach which are the vital parts of the body. So far as A4 is concerned, he is not only accused in the case registered under Section 307 IPC but also in the present crime number. Therefore, he had a very strong motive to ensure that the defacto complainant in the earlier case is done away with. He had engaged A5 to A9 for this purpose. With respect to the confession of A4, it is of course the duty of the respondent to test the same during the course of investigation, but the investigation also relies on other materials and final report had also been filed. The prosecution must be given an opportunity to establish the charges. The witnesses must be given an opportunity to give a free atmosphere to tender evidence. The earlier applications seeking bail had been dismissed on 26.02.2024. Even on that date, it had been noted that the investigation has been completed. There is no significant change in circumstances, this Court is not inclined to grant bail to the petitioners.

13.Hence, these Criminal Original petitions are dismissed.

25.03.2024

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