



Crl.O.P.No.10188 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.06.2024

PRONOUNCED ON : 25.06.2024

CORAM

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

Crl.O.P.No.10188 of 2024
and Crl.M.P.No.7591 of 2024

Rosari Greeten

... Petitioner/A2

Vs.

State represented by
The Inspector of Police,
Velankanni Police Station,
Nagapattinam.
(Crime No.288 of 2022)

... Respondent/Complainant

PRAYER: This Criminal Original Petition filed under Section 439 of Cr.P.C., prayed to enlarge the petitioner on bail in S.C.No.6 of 2023 on the file of the Principal District and Sessions Court, Nagapattinam in Crime No.288 of 2022 on the file of the respondent.

For Petitioner : Mr.V.Ramamurthy

For Intervenor : Mr. MA. Gouthaman

For Respondent : Mr.V.J.Priyadarsana,
Govt. Advocate (Crl. Side)



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ORDER

The second accused in S.C.No. 6 of 2023 now pending on the file of the Principal District and Sessions Court at Nagapattinam and remanded to judicial custody on 29.08.2022 seeks bail. Originally, Cr.No. 288 of 2022 had been registered under Sections 147, 148, 449, 307 and 302 of IPC on 18.08.2022.

2.It is the case of the prosecution that Manoharan, the brother of the defacto complainant was running a finance company and one Manivel was working for collecting the loan amounts. It had been stated that on 17.08.2022, when Manoharan and Manivel were in the finance company, ten persons came and assaulted them with deadly weapon. Manoharan died at that spot. Manivel sustained grievous injuries.

3.The learned counsel for the petitioner stated that this petitioner/A-2 was not at all involved in the offence and stated that he had been falsely implicating owing to business rivalry. The learned counsel also pointed out that the petitioner had been in judicial custody from 29.08.2022



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and stated that among 19 accused, three accused alone are in custody. It is stated that the trial had commenced but the respondent had filed an application seeking further investigation and therefore, there is no possibility of the trial coming to a conclusion in the near future. It had therefore been contended that the petitioner must be granted bail.

4.A counter affidavit has been filed by the respondent, wherein, it had been stated that the accused were not present when the matter was listed on 11.01.2023 before the Sessions Court and again on 25.01.2023, 09.02.2023, 23.02.2023, 09.03.2023, 23.03.2023, 06.04.2023, 20.04.2023, 05.06.2023 and 21.06.2023. Finally, on 20.07.2023, the matter was listed for framing of charges. Again, the accused was alternatively absent during the hearing dates, 20.07.2023, 03.08.2023, 16.08.2023, 30.08.2023, 13.09.2023, 27.09.2023, 05.10.2023, 06.10.2023, 07.10.2023, 10.10.2023, 30.10.2023, 20.11.2023, 22.11.2023, 29.11.2023. Finally, on 08.12.2023 the charges were framed and the matter was posted on 05.01.2024 for commencement of trial. Summons were issued and on 12.02.2024, PW-1 was examined and the matter was again adjourned to 01.03.2024. PW-2 was examined in chief and also was cross-examined on 01.03.2024. Thereafter,



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the accused filed a petition under Section 311 Cr.P.C., raising objections towards marking and playing the CCTV footage. The matter was then again adjourned to pass orders on the objections raised.

5.A perusal of the record shows that with the intention to murder the deceased, the accused went to the business shop of the deceased and assaulted him. It had been stated that the assistant of the deceased was also assaulted. Thereafter, the FIR was registered. It had been stated that the accused had been either taken into custody or they voluntarily surrendered before the Magistrate Court. It had been stated that there was previous motive owing to the village panchayat elections and the running of the village vegetable market. With respect to this petitioner, it had been stated that the first accused had approached this petitioner / A-2 and also A-3 for execution of the plan to commit the murder of the deceased. It had been stated that A-2 and A-3 had contacted their friends and accordingly, the accused Nos. 4 to 8 and 9 came to Nagapattinam and thereafter, the accused Nos. 2 to 9 went over to the business shop belonging to the deceased and assaulted him, as a result of which, the deceased died at that place and his assistant Manivel suffered grievous injuries. It had also been stated that on the confession of



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this accused and of A-3, the case properties had been recovered. The charge sheet has also been filed against the accused before the Judicial Magistrate No.I, Nagapattinam and taken cognizance as P.R.C.No. 3 of 2022. It had been subsequently committed to the Court of Sessions and taken on file as S.C.No. 6 of 2023. It had been further stated that the earlier applications seeking bail by this petitioner had been dismissed on 10.08.2023, 25.09.2023 and 24.11.2023.

6.The learned counsel for the petitioner pointed out that, practically all the other accused had been granted bail and there is now no possibility of the trial progressing since the prosecution has filed application seeking further investigation.

7.I have perused the records and it is seen that two of the witnesses are facing life threat and so far as this accused is concerned, he had also made arrangements even though he was suffering incarceration for elimination of two of the witnesses as retaliation murder.



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8.I have also perused the case diary and one of the witnesses had been threatened that he should not give evidence in SC.No.6 of 2023. He had then given a complaint before the Velankanni Police Station and FIR in Crime No.13 of 2024 had been registered under Section 294(b), 353, 506(ii) and 195 (A) of IPC against some of the accused who are accused in SC.No.6 of 2023. Further, the witnesses who had already deposed are in threat of their life.

9.But, these facts will have to be balanced with the fact there is absolutely no progress in the trial, since the prosecution has filed application seeking further investigation.

10.The learned Senior Counsel for the defacto complainant also raised objections. But however, it is seen from the record that all the other accused had been granted bail. The petitioner had been remanded to custody on 29.08.2022 and has been now in custody for nearly one year and ten months.



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11.The learned counsel for the petitioner pointed out this particular fact and also pointed out that all the other accused had been granted bail and there was no specific reason advanced why this petitioner alone should be remanded to custody.

12.Balancing all factors, I am inclined to grant bail to the petitioner subject to the following conditions:

13.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 Principal District and Sessions Judge, Nagapattinam, 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 Inspector of Police, Vadasery Police Station at Nagarcoil, everyday at 10.00 AM, 2.00 PM and 6.00 PM except on Court hearing dates. On Court hearing dates, the petitioner shall appear before the Trial Court at 10.30 AM and 5.30 PM. This condition should continue until further orders.



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

[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.

14.The connected Criminal Miscellaneous Petition stands closed.

25.06.2024

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Index : Yes / No

Neutral Citation : Yes / No

Speaking order : Yes / No



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To

1. The Principal District and Sessions Judge, Nagapattinam.
- 2.The Central Prison, Trichy.
- 3.The Inspector of Police,
Velankanni Police Station,
Nagapattinam.
- 4.The Inspector of Police,
Vadasery Police Station,
Nagarcoil.
- 5.The Public Prosecutor,
High Court of Madras.



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C.V.KARTHIKEYAN, J.

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