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Crl.O.P.No.12035 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.05.2024

CORAM

THE HON'BLE MR. JUSTICE **R.SAKTHIVEL**

Crl.O.P.No.12035 of 2024

1.Kasi
2.Beeman

...Petitioner / Accused 1 and 2

Vs.

State represented by
The Inspector of Police,
Gangavalli Police Station,
Salem District.
(Crime No.51 of 2024)

...Respondent/ Complainant

For petitioners : Mr.Ganesan
For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)

PRAYER: The Criminal Original Petition filed under Section 439 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant bail in Crime No.51 of 2024 on the file of the respondent police.

ORDER



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This Criminal Original Petition has been filed by the petitioners on 14.05.2024 under Section 439 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant bail.

2. The petitioners/ accused 1 and 2 were arrested and remanded to judicial custody on 15.03.2024 for the alleged offences punishable under Sections 294 (b), 323, 324, 341, 307 of I.P.C. thereafter altered into Sections 294 (b), 323, 324, 341 and 302 of I.P.C., in Crime No.51 of 2024 on the file of the respondent police.

3.The case of the prosecution is that, due to a civil dispute between the first petitioner / accused No.1 and the defacto complainant's husband, who is the brother of the first petitioner / accused No.1, on 15.03.2024, the first petitioner / accused No.1 along with the second petitioner / accused No.2, who is a relative to the first petitioner / accused No.1 and the defacto complainant's husband attacked the defacto complainant and her husband; and stabbed the defacto complainant's husband with a knife on his stomach. The defacto complainant called the 108 ambulance and admitted her husband in Government Hospital, Attur and later shifted him to Government Hospital, Salem for further treatment.



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The respondent police took statement from the defacto complainant since her husband was unconscious and registered the F.I.R. Later, the respondent police altered the F.I.R. into Sections 294 (b), 323, 324, 341 and 302 of I.P.C. on 18.03.2024 the defacto complainant's husband died in the Government Hospital, Salem during treatment. Hence the case.

4. The learned counsel appearing for the petitioners submitted that the petitioners are innocent and they have not committed any offence as alleged by the prosecution; Accused No.1 was constructing a house in his land and applied for electricity connection; that being so, the deceased Arunachalam gave an objection letter to the EB Office since there was a civil dispute between them; when the petitioners / accused 1 and 2 entered the house of the defacto complainant to enquire regarding the objection letter given to the EB office, the deceased along with his brother Karthikeyan started attacking the petitioners; the deceased Arunachalam took a knife and started attacking the petitioners; during the fight, the deceased himself fall and sustained injury by the knife, which was hold by him; the petitioners were also injured during the fight; the petitioners also lodged a complaint before the respondent police in Cr.No.52 of 2024. He



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further submits that the petitioners are in judicial custody since 15.03.2024.

He therefore prayed to grant bail to the petitioners.

5. The learned Government Advocate (Criminal Side) appearing for the respondent police submitted that there was a civil dispute between the first petitioner / accused No.1 and the defacto complainant's husband; the petitioners / accused Nos.1 and 2, in inebriated state, entered into the house of the defacto complainant and attacked the defacto complainant and her husband, who is the brother of the accused No.1 and stabbed him with a knife in his stomach; the deceased was admitted in Government Hospital, Salem and during his treatment, he died on 18.03.2024. He further submitted that investigation is not yet completed; and that at this stage of investigation, if bail is granted to the petitioners, they will cause threat to the defacto complainant and witnesses. Accordingly, he prayed to dismiss this Criminal Original Petition.

6. Heard on both sides. This Court has perused the records.

7. The petitioners were arrested on 15.03.2024. The petitioners



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have permanent residence and deep roots in the society. Hence, there is less possibility of absconding. Hence, with a view to give one more opportunity to reform themselves and considering the stage of investigation, this Court is inclined to grant bail to the petitioners, however, subject to conditions. Accordingly, bail is granted to the petitioners subject to the following conditions:

(i) The petitioners shall execute **separate bond for Rs.20,000/-** (Rupees Twenty Thousand only) along with two sureties each for a like sum of Rs.20,000/- (Rupees Twenty Thousand only) to the satisfaction of the **learned Judicial Magistrate No.2, Attur. *1**

(ii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019]. The learned Judicial Magistrate shall obtain a copy of any one of identity proofs to ensure their identity;

(iii) The petitioners shall furnish their residence address and mobile number before the **Judicial Magistrate No.2 Court, Attur. *2**

(iv) **Thereafter, the petitioners shall stay at Erode Town and shall**



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appear and sign before the learned Judicial Magistrate, Erode, daily at 10.30a.m., until further orders;

(v) The petitioners shall not, directly or indirectly, cause any threat to the defacto complainant and witnesses and shall not tamper the evidence; and the petitioners shall not enter into the victim's house;

(vi) On breach of any of the aforementioned conditions, the learned Judicial Magistrate Attur, or Trial Court as the case may be, is entitled to pass appropriate orders against the petitioners in accordance with law as if the aforementioned conditions are imposed by him as laid down by the Hon'ble Supreme Court in *P.K. Shaji vs. State of Kerala* [(2005) 13 SCC 283].

8. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated supra.

16.05.2024

Index : Yes/No
Internet : Yes/No
Neutral citation : Yes/No
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Note:-

- 1) ***1 *2 - typographical errors have been rectified *suo motu*. Registry is directed to forthwith upload this corrected order in the official website of this Court.**
- 2) **All concerned to act on this order being uploaded in official website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.**

To

- 1.The Judicial Magistrate No.II, Attur.
- 2.The Judicial Magistrate, Erode.
3. The District Jail, Attur.
- 4.The Inspector of Police,
Gangavalli Police Station,
Salem District.
- 5.The Public Prosecutor, High Court of Madras.



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R.SAKTHIVEL. J.

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