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Crl.O.P.No.12162 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.12162 of 2024

1.Elavendhan

S/o.Mathiyazhagan

2.Rajaguru

S/o. Pachamuthu

... Petitioner/Accused Nos. 2 & 3

Vs.

The State represented by
Inspector of Police,
S.H.O. Kumaratchi Police Station,
Cuddalore District.
(Crime No.161 of 2023)

... Respondent / Complainant

For Petitioners : Mr.R.Parthiban

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

Prayer: Criminal Original Petition filed under Section 439 of the Criminal Procedure Code, 1973 praying to enlarge the petitioners on bail concern in PRC.No.08 of 2024 on the file of The Judicial Magistrate No.II, Chidambaram in Crime No.161 of 2023 on the file of the Inspector of Police, S.H.O. Kumaratchi Police Station, Cuddalore District.



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ORDER

This Court made the following order:-

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This Criminal Original Petition has been filed by the petitioners under Section 439 of the Criminal Procedure Code, 1973 praying to grant bail.

2.The petitioners / Accused Nos.2 & 3 were arrested and remanded to judicial custody on 24.12.2023 for the alleged offences punishable under Section 174 of Code of Criminal Procedure, 1973, in Crime No.161 of 2023, on the file of the respondent police.

3.The case of the prosecution is that the defacto complainant lodged the complaint before the respondent Police that the defacto complainant's brother namely Mamalan aged above 45 years was found dead near the Iya Temple. Thereafter, based on the complaint given by the defacto complainant, FIR was registered under Section 174 of Code of Criminal Procedure and after investigation, FIR was altered and registered under Sections 109, 120(B), 341 and 302 of IPC against the petitioners and other accused persons. A1 and A4 are in abroad and A2 and A3 are coolipadai and they received money and murdered the deceased. Hence, the case.

4.The learned counsel appearing for the petitioners submitted that the



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petitioners are arrayed as accused Nos.2 & 3 in this case and they are innocent

and they have not committed any offence as alleged by the prosecution. The

petitioners have been falsely implicated in this case by the respondent police.

The petitioners are in judicial custody since 24.12.2023. The earlier bail

application filed by the petitioners was dismissed by the learned Vacation

Sessions Judge / II Additional District and Sessions Judge, Chidambaram, on

09.05.2024 in Crl.M.P.No.3051 of 2024. He further submitted that the

investigation has been completed and charge sheet filed and also the case is

numbered as PRC.No8 of 2024 on the file of the Judicial Magistrate Court

No.II, Chidambaram and is posted on 15.06.2024 for further proceedings. This

is the first bail application before this Court. A1 was released on bail by this

Court by order dated 13.03.2024 in Crl.O.P.No.4406 of 2024. He further

submitted that if this Court grants bail to the petitioners, they are ready to

produce local sureties to the satisfaction of the Court. He therefore prayed to

grant bail to the petitioners.

5.The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that there are totally 4 accused persons involved in

this case. He further submitted that A4 is abroad, A1 was granted bail by this

Court and the petitioners viz., A2 & A3 are coolipadai and they received money



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and murdered the deceased due to illegal contact between A1 and A4. He further submitted that the offences are grave in nature. There are two previous cases against the petitioners. Hence, he vehemently opposed for the grant of bail to the petitioner.

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

7. In this case, charge sheet has been filed before the learned Judicial Magistrate No.II, Chidambaram in PRC.No.8 of 2024. Considering the facts and circumstances of the case, the petitioners are having two previous cases punishable under Section 379 of IPC, considering the fact that the respondent Police filed charge sheet before the learned Judicial Magistrate No.II, Chidambaram, 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) Each of the petitioners shall execute a **bond for Rs.20,000/-** (Rupee 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.II, Chidambaram. One of the sureties must be a local surety.**

(ii) The sureties shall affix their photographs and left thumb impression



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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 appear before the learned Judicial Magistrate No.II, Chidambaram, daily at 10.30 a.m. until further orders;**

(iv) The petitioners shall not, directly or indirectly, cause any threat to the defacto complainant and witnesses and shall not tamper the evidence.

(v) On breach of any of the aforementioned conditions, the learned Magistrate 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

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

Note:-

1. Registry is directed to forthwith upload this 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



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watermarked and will also have a QR code.

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To

- 1.The Judicial Magistrate No.II,
Chidambaram.
- 2.The Vacation Sessions Judge / II Additional District and Sessions Judge,
Chidambaram.
3. The Superintendent,
Central Prison, Puzhal.
- 4.The Inspector of Police,
S.H.O. Kumaratchi Police Station,
Cuddalore District.
- 5.The Public Prosecutor,
High Court, Madras.



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R.SAKTHIVEL, J.

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