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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2024

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THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.27834 of 2023

Zaildar Singh ..Petitioner

Vs.

The State represented by,
The Inspector of Police,
Annadanapatti Police Station,
Salem District.
(Crime No.575 of 2002) ..Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C, to enlarge the petitioner on bail in connection with P.R.C.No.14 of 2015, pending Trial on the file of Judicial Magistrate-IV, Salem to secure the ends of justice.

For Petitioner : Mr.R.Sankarasubbu
For Respondent : Mr.S.Sugendran
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 07.04.2022 for the offences punishable under Sections 120(B), 147, 148, 449, 450, 454, 456, 302, 396, 396 read with Section 397, 120(b) read with Section 149 and 109 of IPC and under Sections 25(1)(a) of Arms Act in PRC.No.14 of 2015 pending committal on the file of Judicial Magistrate-IV, Salem in respect

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of Crime No.575 of 2002 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner was arrayed as accused in a case of double murder. It is alleged that when the case was pending for committal in PRC.No.14 of 2015 on the file of the learned Judicial Magistrate -IV, Salem in respect of Crime No.575 of 2022 on the file of the respondent police, the petitioner was absent on 23.02.2002 before the Court below. As such, on execution of non bailable warrant, the petitioner was arrested and remanded to Judicial Custody.

3. The learned counsel appearing for the petitioner would submit that this is the 8th application for bail. Though this Court had dismissed the earlier application for bail and directed the Trial Court to complete the trial, within a period of six months from the date of receipt of the order, the Trial Court did not comply with the trial so far. The prosecution had examined 45 witnesses so far viz., P.Ws.1 to 45. No witness had whispered about the overtact of the petitioner herein. The defacto complainant was examined as P.W.1. He deposed that A1 and A2 alone were present in the scene of occurrence. As far as the third accused is concerned, he was not present at the time of occurrence. The person who had arrested the petitioner was examined as P.W.4. He came from

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Punjab and arrested the petitioner and remanded to judicial custody in some other place. Insofar as the present case is concerned, the petitioner never failed to appear before the committal Court. Now, he has been in incarceration imprisonment from the date of his arrest viz., 07.04.2022. In fact, previously he was arrested and he was in jail for more than five years. Hence, he seeks for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent police would submit that the petitioner has been implicated as accused for the offence under Section 120B of IPC. Therefore, admittedly, he was not present in the scene of occurrence. As directed by this Court, the prosecution is about to complete the examination of witnesses. Out of 46 witnesses, so far the prosecution had examined P.Ws.1 to 45 and posted the matter for examination of the Investigating Officer. That apart, the petitioner is hailing from Punjab. Hence, he vehemently opposed to grant bail to the petitioner.

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5. A perusal of records revealed that the petitioner was arrested and remanded to judicial custody on 07.04.2022. As directed by this Court, the Trial Court had commenced the trial and about to complete the same. Today, the matter is posted for examination of Investigating Officer. A perusal of the deposition of P.Ws.1 and 2 revealed that they did not even whisper about the overtact of the petitioner. Even according to the case of the prosecution, the petitioner has been implicated as accused under Section 120B of IPC.

6. Considering the above facts and circumstances of the case, and also considering the period of incarceration undergone by the petitioner from 07.02.2022, this Court is inclined to grant bail to the petitioner.

7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with **two blood related sureties**, each for a like sum to the satisfaction of the learned Judicial Magistrate IV, Salem 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.

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[b] the petitioner shall stay at Salem and report before the Trial Court daily at 10.30 a.m., and 05.00 p.m, until further orders.

[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.

03.01.2024

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G.K.ILANTHIRAIYAN, J.

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To

1.The Judicial Magistrate IV, Salem.

2. The Inspector of Police,
Annadanapatti Police Station,
Salem District.

3. The Central Prison,
Puzhal-1, Chennai-66.

4.The Public Prosecutor,
High Court of Madras.

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