



Crl.O.P.No.27416 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2024

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THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.27416 of 2024

Azhar Hussain

... Petitioner

Vs.

The State of Tamil Nadu,
Represented by,
The Inspector of Police,
E-1, Mylapore Police Station.

(Crime No.268 of 2024).

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS Act, pleaded to enlarge the petitioner on bail, in connection with the Crime No.268 of 2024, pending investigation on the file of the respondent Police.

For Petitioner : Mr.N.S.Siva Kumar

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 23.08.2024, seeking bail in Crime No.268 of 2024 registered for the offence under Sections



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329(4), 309(6), 311 of BNS and later altered under Sections 329(4), 305 & 103(1) of BNS.

2. The case of the prosecution as per the de facto complainant is that her sister/victim was living alone and she used to visit her home. On 21.08.2024, at about 6.00 p.m., when she had visited her sister's home, she found that her sister was lying unconscious in the kitchen, thereby, she had taken her to the nearby Meenakshi hospital, during such time, she found that the jewels worn by her were missing. Later, on 22.08.2024, since the victim become serious, she was taken to the Kauvery hospital. The de facto complainant, on suspecting that someone would have assaulted her sister and taken away her jewels, had given a complaint and based on her complaint, a case in Crime No.268 of 2024 came to be registered. During the course of investigation, it came to light that the petitioner/accused had trespassed in to the house of the victim, assaulted her and robbed her jewels. Since the de facto complainant's sister died without responding to the treatment, the case has been altered to the offence under Sections 329(4), 305 & 103(1) of BNS. Hence the case.



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3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case only based on the suspicion and the CCTV footage. He further submitted that the petitioner had completed Diploma in Mechanical Engineering and taking care of his father's business. He also submitted that though the incident happened on 21.08.2024, the complaint was given only on 22.08.2024. He further submitted that the petitioner, who has no bad antecedents, is in custody from 23.08.2024 and he is ready to abide by any stringent conditions that may be imposed by this Court. Hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that it is the case of murder for gain. He further submitted that the petitioner/accused had entered into the house of the victim, who was living alone, assaulted her and taken away the jewels worn by her. He also submitted that the jewels have been recovered from the petitioner, however, the investigation in this case is still pending, hence, he opposed for grant of bail to the petitioner.

5. Heard the learned counsel appearing for the petitioner and the



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learned Government Advocate (CrI.Side) for the respondent Police and perused the materials available on record.

6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and taking note of the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the learned **XVIII Metropolitan Magistrate (FAC), Saidapet, Chennai**, 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 respondent Police, everyday at 10.30 a.m. and 6.30p.m., until further orders;

[c] the petitioner shall not abscond during either



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during investigation or trial;

[d] the petitioner shall not tamper with evidence or witness during 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 269 B.N.S.

07.11.2024

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To

1. The XVIII Metropolitan Magistrate (FAC),
Saidapet, Chennai.
2. The Inspector of Police,
E-1, Mylapore Police Station.
3. The Superintendent,
Central Prison, Puzhal – II.
Chennai.
4. The Public Prosecutor,
High Court of Madras.

A.D.JAGADISH CHANDIRA, J.



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