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CrI.O.P.No.30280 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2024

CORAM

THE HON'BLE MR. JUSTICE **P.DHANABAL**

CrI.O.P.No.30280 of 2024

1.Santhosh Kumar

2.Sathiyamoorthi @ Satti

... Petitioners

Vs.

State Rep. by
The Inspector of Police,
Vellavedu Police Station,
Tiruvallur District.
(Crime No. 404 of 2024).

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS,
pleased to enlarge the petitioner on bail pending trial in connection with
S.C.No.345 of 2024 on the file of the Additional District and Sessions Court
No.III, Poonamallee.

For Petitioner : Mr.A.J.Magendiraverman

For Respondent : Mr.S.Balaji,
Government Advocate (CrI.Side)

ORDER

The petitioners/A5 & A3, who were arrested and remanded to



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judicial custody on 10.07.2024, for the alleged offences under Sections 61(2), 191(1), 192(2), 191(3), 126(2), 296(b), 109, 103(2), 351 (3) r/w 190 of BNS Act, in connection with S.C.No.345 of 2024, pending trial on the file of the Additional District and Sessions Court No.III, Poonamallee, in Crime No.404 of 2024 on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 05.07.2024 at about 4.30 p.m, due to previous enmity, when the defacto complainant and the deceased were in the Thirumazhisai graveyard, for doing a funeral service, the accused persons came in a two wheeler and assaulted the deceased and defacto complainant by using knife, due to which, the defacto complainant sustained injuries, admitted in the hospital and later discharged and the deceased died on the spot. Hence, the complaint.

3. Learned counsel appearing for the petitioners submitted that this is the second application filed by the petitioners for bail. He further submitted that the petitioners are innocent persons and they have not committed any offence as alleged in the FIR, and they have been falsely implicated in this case. He also submitted that the detention of the petitioners



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under Goonda was revoked by this Court on 27.11.2024. He further submitted that the co-accused were also released on bail by this Court. He further submitted that the petitioners are in custody from 10.07.2024, therefore, he prays for grant of bail to the petitioners.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police opposed for granting bail to the petitioners stating that there are totally 6 accused in this case and the petitioners herein are ranked as A5 and A3. He further submitted that the petitioners along with other accused persons, due to previous enmity with regard to funeral service, assaulted the defacto complainant and the deceased by using knife, for which, the defacto complainant sustained injuries, later discharged and the deceased died on the spot. Initially, a case was registered in Crime No.404 of 2024 under Sections 296(b), 103(1), 109, 126(2), 351(3) of BNS Act and based on the witnesses statement, the offences were altered to under Sections 296(b), 109, 126(2), 351(3), 191(2), 191(3), 190, 103(2), 191(1), 61(2) of BNS Act. He further submitted that during the course of investigation, final opinion was obtained from the Government Medical College Hospital, wherein it is opined that the deceased died, “due to effects of head injuries”. He further



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submitted that the third petitioner has one previous case and the fifth petitioner has no previous case pending against them, investigation was completed and the final report was filed and the case has been taken up in S.C.No.345 of 2024 on the file of the Additional District and Sessions Court No.III, Poonamallee, and now the case is posted for opening of case on 19.12.2024. Hence, he prayed for dismissal of the petition.

5. Heard both sides and perused the materials available on record including the First Information Report.

6. Considering the representation made by both side counsel, co-accused were already released on bail, investigation was completed and charge sheet was filed and case is numbered as in S.C.No.345 of 2024 on the file of the Additional District and Sessions Court No.III, Poonamallee and now the case was posted for prosecution case, and that detention order passed against the petitioners have been set aside by this Court on 27.11.2024, and considering the period of incarceration undergone by the petitioners, though the third petitioner has one previous case, in which, he has been released on bail, and the fifth petitioner has no previous case pending against him, and



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also considering all others factors, I am inclined to grant bail to the petitioners, subject to certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties, each for a like sum to the satisfaction of the Additional District and Sessions Court – III, Poonamallee, and on further conditions that:-

[a] the petitioners shall report before the trial court on all working days at 10.30 a.m., until further orders.

[b] the Petitioners shall not commit any offences of similar to the offence of which he is accused, or suspected, or of the commission of which he is suspected;

[c] the Petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

[d] the Petitioners shall not abscond either during investigation or trial;



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[e] On breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the Petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]; and

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 B.N.S.

05.12.2024

drl

To

1.The Additional District and Sessions Court – III,
Poonamallee.

2.The Inspector of Police,
Vellavedu Police Station,
Tiruvallur District.

3.The Superintendent,
Central Prison - II, Puzhal, Chennai

4.The Public Prosecutor,
High Court, Madras.

P.DHANABAL, J.

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