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Crl.O.P.No.28669 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2024

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.28669 of 2023

Santhosh

... Petitioner

Vs.

State represented by
Inspector of Police,
Guindy Police Station,
Chennai.
(Crime No.848 of 2023)

... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of the Code of Criminal Procedure to enlarge the petitioner on bail in Crime No.848 of 2023 on the file of the Inspector of Police, J3 Police Station, Chennai.

For Petitioner : Mr.Kamaraj

For Respondent : Mr.A.Gopinath,
Government Advocate (Crl.Side)

ORDER

The petitioner who was arrayed as A2 in the FIR was arrested and



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remanded to judicial custody on 08.12.2023. He seeks for bail in the Crime No.848 of 2023 for alleged offence under Section 304(II) of IPC.

2. The case of the prosecution is that on 04.12.2023, at about 04:00 a.m. the deceased went to the site for work but however, at around 07:30 a.m. when the deceased was attempted to be contacted, he was not able to be reached in his mobile phone. Immediately the defacto complainant went to the spot and was informed that the persons who were working on the spot sank into the water that accumulated in the pit due to heavy rains. Based on the complaint, a man missing FIR was registered on 05.12.2023. Subsequently, the alteration report was filed before the concerned court and the FIR was altered for offence under Section 304(II) of the IPC. There are totally 6 accused persons in this case and the petitioner has been arrayed as A2. The petitioner is said to be working as an operator with Hitachi and it is alleged that there was negligence on the part of the petitioner as a result of which the incident had taken place and the deceased drowned in the water that had accumulated due to heavy rains.

3. The learned Government Advocate appearing on behalf of the



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respondent police submitted that out of 6 accused persons, A1, A2 and A4 were arrested and the other accused persons are absconding. A1 and A4 filed bail petitions before this Court in Crl.O.P.Nos.29116 and 29262 of 2023. They were enlarged on bail by order dated 29.12.2023 by imposing certain conditions.

4. This Court carefully considered the submissions made on either side and the materials available on record.

5. In the instant case, the entire incident had taken place due to abnormal rains that poured over Chennai resulting in inundation of almost entire Chennai on 4th and 5th of December 2023. It is more in the nature of natural calamity. Considering the fact that the petitioner is suffering incarceration from 08.12.2023 and the fact that this Court had already granted bail to the co-accused, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(i) accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the



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satisfaction of the IX Metropolitan Magistrate, Saidapet and on

further conditions that:

- (ii) the petitioner shall report before the IX Metropolitan Magistrate, Saidapet daily at 10.00 A.M. until further orders.
- (iii) the petitioner shall not commit any offences of similar nature.
- (iv) the petitioner shall not abscond either during investigation or trial.
- (v) the petitioner shall not tamper with evidence or witness either during investigation or trial.
- (vi) 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 the case of *P.K.Shaji vs. State of Kerala* reported in [(2005) AIR SCW 5560].
- (vii) if the accused thereafter absconds, a fresh FIR can be registered



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under Section 229A IPC.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

Note: Issue order copy by 10.01.2024



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To

The Inspector of Police,
Guindy Police Station,
Chennai.



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N. ANAND VENKATESH, J.

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