



Crl.O.P.No. 412 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.03.2024

PRONOUNCED ON : 21.03.2024

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.O.P.No. 412 of 2024

Rosari Greenten

... Petitioner/
Accused No.2

Vs.

The State Rep. by
The Inspector of Police
Velankanni Police Station
Nagapattinam
In Crime No. 288 of 2022.

... Respondent/Complainant

PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner/Accused No.2 on bail in Crime No. 288 of
2022 on the file of the respondent police.

For Petitioner : Mr. V.Ramamurthy

For Respondent : Mr.L.Baskaran
Government Advocate (Crl.Side)



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ORDER

The second accused in S.C.No. 6 of 2023 now pending on the file of the Principal District and Sessions Court at Nagapattinam and remanded to judicial custody on 29.08.2022 seeks bail. Originally Cr.No. 288 of 2022 had been registered under Sections 147, 148, 449, 307 and 302 of IPC on 18.08.2022.

2. It is the case of the prosecution that Manoharan, the brother of the defacto complainant was running a finance company and one Manivel was working for collecting the loan amounts. It had been stated that on 17.08.2022, when Manoharan and Manivel were in the finance company, ten persons came and assaulted them with deadly weapon. Manoharan died at that spot. Manivel sustained grievous injuries.

3. The learned counsel for the petitioner stated that this petitioner/A-2 was not at all involved in the offence and stated that he had been falsely implicating owing to business rivalry. The learned counsel also pointed out that the petitioner had been in judicial custody from 29.08.2022 and stated that among 19 accused, three accused alone are in custody. It is



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stated that the trial had commenced but the respondent had filed an application seeking further investigation and therefore, there is no possibility of the trial coming to a conclusion in the near future. It had therefore been contended that the petitioner must be granted bail.

4. This Court had also obtained a report from the learned Principal District and Sessions Court Judge at Nagapattinam and in the report dated 01.02.2024 it had been stated that the matter is posted for examination of witness.

5. A counter affidavit had been filed on behalf of the respondent wherein it had been stated that with the intention to murder the deceased, the accused went to the business shop of the deceased and assaulted him. It had been stated that the assistant of the deceased was also assaulted. Thereafter, the FIR was registered. It had been stated that the accused had been either taken into custody or they voluntarily surrendered before the Magistrate Court. It had been stated that there was previous motive owing to the village panchayat elections and the running of the village vegetable market. With respect to this petitioner, it had been stated that the first accused had



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approached this petitioner / A-2 and also A-3 for execution of the plan to commit the murder of the deceased. It had been stated that A-2 and A-3 had contacted their friends and accordingly, the accused Nos. 4 to 8 and 9 came to Nagapattinam and thereafter, the accused Nos. 2 to 9 went over to the business shop belonging to the deceased and assaulted him, as a result of which, the deceased died at that place and his assistant Manivel suffered grievous injuries. It had also been stated that on the confession of this accused and of A-3, the case properties had been recovered. The charge sheet has also been filed against the accused before the Judicial Magistrate No.I, Nagapattinam and taken cognizance as P.R.C.No. 3 of 2022. It had been subsequently committed to the Court of Sessions and taken on file as S.C.No. 6 of 2023. It had been further stated that the earlier applications seeking bail by this petitioner had been dismissed on 10.08.2023, 25.09.2023 and 24.11.2023.

6. The learned counsel for the petitioner pointed out the period of incarceration suffered by the petitioner and stated that there is no possibility of the trial concluding in the near future. He stated that the prosecution has now filed an application for further investigation and stated that therefore



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even if the trial had commenced it would now come to a halt. The learned counsel stated that there was no direct evidence against this petitioner. It had been further contended that all the accused had been granted bail.

7. The learned Government Advocate (Crl. Side) however raised very strong objections for grant of bail. He stated that the accused Nos. 1, 2 and 6 are still in custody and stated that the injured witness is under direct threat not to tender evidence against the accused persons. He also stated that further materials had come to surface and that necessary application had therefore been filed seeking to conduct further investigation.

8. I have carefully considered the arguments advanced and also perused the case diary.

9. It is the case of the prosecution that when the deceased and his assistant were in his business shop on 17.08.2022, the accused came into the shop and brutally attacked both of them and causing death to one and grievous injuries to the other.



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10. It is the specific case of the prosecution that this petitioner was approached by the first accused and he had arranged for the other accused to come over to Nagapattinam from Chennai and commit the act of murder. The final report had been filed and now the matter is pending as S.C.No. 6 of 2023 be fore the Principal Sessions Court at Nagapattinam.

11. It is also seen from the records that one of the eye witness whose name it would not be judicious to disclose in this order was threatened by the accused who had been let out on bail, that he should not give evidence in S.C.No. 6 of 2023. He had then given a complaint before Velankanni Police Station and FIR in Cr.No. 13 of 2024 had been registered under Section 294(b), 352, 506(ii) and 195-A of IPC against some of the accused, who are also the accused in S.C.No. 6 of 2023. It is evident that all the witnesses, who have tender evidence in S.C.No. 6 of 2023 are in fear of their life. Further, the accused, Avikumar, Ganesh and Akash, had been again re-arrested with respect to offences registered in FIR in Cr.No. 13 of 2024. There are two other accused, who are still absconding. It is thus seen that the accused have violated the conditions granting bail to them.



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12. In view of these materials, which are available, since there is direct threat for the eye witness, I am not inclined to grant bail to the petitioner. Accordingly, this Petition stands dismissed.

21.03.2024

vsg

Index:Yes/No

Neutral Citation:Yes/No

Speaking order : Yes/No

To

- 1.The Inspector of Police
Velankanni Police Station
Nagapattinam
2. The Central Prison, Trichy.
3. The Public Prosecutor,
High Court of Madras.



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C.V.KARTHIKEYAN, J.

vsg

Pre Delivery Order made in
Crl.O.P.No. 412 of 2024

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