



in CRL OP(MD). Nos.23165, 23166 and 23167 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 04/01/2024

PRESENT

The Hon`ble Mr.Justice **M.DHANDAPANI**

CRL OP(MD). Nos.23165, 23166 and 23167 of 2023

1. Boominathan
2. Palpandi
3. Mariappan

... Petitioners/ A1 to A3
in Crl.O.P.(MD)No.23165 of 2023

Kannisamy

... Petitioner/ A5
in Crl.O.P.(MD)No.23166 of 2023

Kasthuri

... Petitioner/ A6
in Crl.O.P.(MD)No.23167 of 2023

Vs

The Inspector of Police,
Aviyur Police Station,
Virudhunagar District.
Crime No.149 of 2023

... Respondent/Complainant
in all petitions

In all petitions:

For Petitioner : Mr.M.Jegadeeshpandian
Advocate.

For Respondent : Mr.B.Nambi Selvan,
Additional Public Prosecutor



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PETITIONS FOR BAIL Under Sec.439 of Cr.P.C.

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COMMON PRAYER :-

For Bail in Crime No.149 of 2023 on the file of the Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners/A1, who was arrested and remanded to judicial custody on 21.11.2023 and the petitioners/A3, A5 and A6, who were arrested and remanded to judicial custody on 28.11.2023 for the offences punishable under Sections 147, 294(b), 324 and 307 of IPC @ Sections 147, 294(b), 324, 302 and 447 of IPC in Crime No.149 of 2023, on the file of the respondent police, seek bail.

2.The case of the prosecution is that the deceased make a call to the first accused's wife and also misbehaved with A1's wife. Due to which, all the accused persons joined together and attacked the deceased and thereafter, administering poison. Thereafter, the deceased admitted to the hospital and he lost his life after six days treatment. Hence, the case.

3.The learned counsel for the petitioners would submit that all those accused persons were arrested on 21.11.2023 and 28.11.2023 and the substantial portion of the investigation is almost completed and the allegation against the petitioners are that the petitioners joined together and attacked the deceased person. However, no



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weapons were used. It is only a wordy quarrel in between them and no specific overt act against the petitioners/A1 to A3 and A6 and the allegation is only against A5 and A5 alone administering the poison. Hence, he prays for grant bail to the petitioners.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that admittedly, the deceased make a call to the A1's wife. Thereby, A1 suspected the fidelity of his wife and he and along with the other accused questioned the same to the deceased, due to which, there was a wordy quarrel between them. Thereby, all the accused attacked the deceased with wooden log and thereafter administering the poison. Thereafter, the deceased admitted the hospital, where, he lost his life. He would further submit that A1 to A3 and A6 are not having any previous case and A5 is having five previous cases.

5.Heard the learned counsel on either side and also perused the material records of the case including the postmortem certificate.

6.The facts in the present case are not in dispute and admittedly, A5 is having five previous cases and the other petitioners are not having any previous case.

7.Since A5 is having five previous cases, this Court is not inclined to grant bail to A5. Hence, CrI.O.P.(MD)No.23166 of 2023 is dismissed.

8.Considering the above facts and circumstances of the case and also



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considering the period of incarceration suffered by the petitioners/ A1 to A3 and A6, this court is inclined to grant bail to the petitioners/ A1 to A3 and A6 with certain conditions.

9. Accordingly, Crl.O.P.(MD)Nos.23165 and 23167 of 2023 are ordered and the petitioners/ A1 to A3 and A6 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 learned Judicial Magistrate No.II, Virudhunagar District, 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 petitioners/ A1 to A3 and A6 are directed to appear before the respondent police daily at 05.00 p.m., till conclusion of the investigation;

(c) the petitioners/ A1 to A3 and A6 shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioners/ A1 to A3 and A6 shall not abscond 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 petitioners/ A1 to A3 and A6



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in accordance with law as if the conditions have been imposed and the petitioners/A1 to A3 and A6 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-

04/01/2024

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04/01/2024

Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

TO

- 1 THE JUDICIAL MAGISTRATE NO.II
VIRUDHUNAGAR DISTRICT.
- 2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
VIRUTHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 3 THE OFFICER INCHARGE,
DISTRICT PRISON, VIRUDHUNAGAR.
- 4 THE OFFICER INCHARGE,
SPECIAL PRISON FOR WOMEN, MADURAI.



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5 THE INSPECTOR OF POLICE
AVIYUR POLICE STATION,
VIRUDHUNAGAR DISTRICT.

6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+2 CC to M/s.M.JEGADEESH PANDIAN, Advocate (SR-172, 171[I] dated
04/01/2024)

ORDER
IN

CRL OP(MD). Nos.23165, 23166 and 23167 of 2023

Date :04/01/2024

SS/SAR- /04/01/2024/6P/9C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023