



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Fifteenth day of April Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM

CRL OP(MD) No.5290 of 2015

RAJA @ APPALA RAJA

... PETITIONER / ACCUSED No.1

Vs

THE STATE REP. BY THE INSPECTOR OF POLICE
AASTINPATTI POLICE STATION, MADURAI DT,
CRIME NO.432/2011

... RESPONDENT/ COMPLAINANT

For Petitioner : M/S.R.ANAND Advocate

For Respondent : M/S.P.Shanmuga Velayutham Public prosecutor assisted by
M/S.K.V.Rajarajan Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

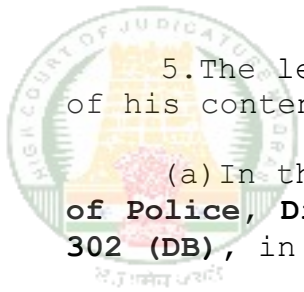
The petitioner, who is arrayed as A1 in the Sessions Case in SC No.104 of 2014 on the file of the VI Additional District and Sessions Judge, Madurai, had voluntarily surrendered before the learned Judicial Magistrate No.V, Madurai on 21.06.2014 and remanded to judicial custody, seeks bail.

2.Mr.R.Anand, the learned counsel for the petitioner submitted that the petitioner was arrested by the respondent police in connection with a case in Crime No.432 of 2011 on 06.08.2011 and he was released on bail by this court in Crl.O.P(MD)No.13272 of 2011 on 04.10.2011. Thereafter, the respondent has completed the investigation and laid a charge sheet, which is taken on file as PRC No.29 of 2014 on the file of the learned Judicial Magistrate, Thirumangalam and on committal, the case was numbered as S.C.No.104 of 2014 on the file of the learned VI Additional District and Sessions Judge, Madurai.

3.It is further submitted that in the meanwhile, the petitioner was arrested in Crime No.633 of 2014 by the Inspector of Police, S.S.Colony Police Station and remanded to judicial custody. The learned counsel further submitted that due to non-appearance of the petitioner in PRC No.29 of 2014, the learned Judicial Magistrate, Thirumangalam had issued P.T. Warrant and in-spite of the petitioner was granted bail in Crime No.633 of 2014, he was not released on bail and he was remanded on the basis of the P.T. Warrant issued in this case.

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4.The learned counsel further submitted that once the accused is granted bail, in a particular case and unless, the bail is cancelled in the manner known to law, the accused cannot be remanded on issuance of P.T. Warrant.



5. The learned counsel has relied on the following decisions in support of his contention:-

(a) In the case of **K.S. Muthuramalingam Vs. State, rep. by the Inspector of Police, District Crime Branch and another, reported in 2010(2)MWN (Cr.) 302 (DB)**, in which the Division Bench of this court has held as follows:-

"7. Section 267 of the Code of Criminal Procedure, 1973 deals with P.T. Warrant. It says, whenever it appears to a Criminal Court dealing with an inquiry, trial or other proceeding, in the course of such inquiry, trial or other proceeding under the Code of Criminal Procedure that a person confined or detained in a prison should be brought before the Court for answering to a charge of an offence, or for the purpose of any proceeding against him or it is necessary to examine such person as a witness, such Court may make an order requiring the officer in charge of the prison to produce such person before the Court for answering to the charge or for the purpose of such proceeding or, as the case may be, for giving evidence. A reading of the said section itself suggests that such an order of a Criminal Court for production of the person detained in prison shall be executable only if the person is detained on the date on which, production is to be made. This position is further amplified by Sub-section (c) of Section 269 of Code of Criminal Procedure. For better appreciation, the entire Section 269 of the Code of Criminal Procedure is re-produced hereunder:

269. Officer in charge of prison to abstain from carrying out order in certain contingencies.-Where the person in respect of whom an order is made under Section 267-

(a) is by reason of sickness or infirmity unfit to be removed from the prison; or

(b) is under committal for trial or under remand pending trial or pending a preliminary investigation; or

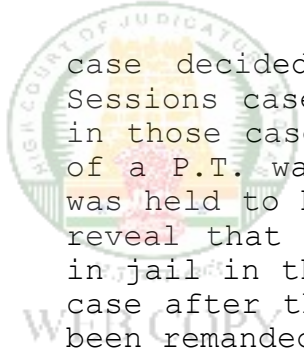
(c) is in custody for a period which would expire before the expiration of the time required for complying with the order and for taking him back to the prison in which he is confined or detained; or

(d) is a person to whom an order made by the State Government under Section 268 applies, the officer in charge of the prison shall abstain from carrying out the Court's order and shall send to the Court a statement of reasons for so abstaining;

Provided that where the attendance of such person is required for giving evidence at a place not more than twenty-five kilometres distance from the prison, the officer in charge of the prison shall not so abstain for the reason mentioned in Clause (b).

13. From the above, it is quite obvious that the scope of the P.T. warrant cannot be enlarged by assuming the same to be an authorisation for detaining the prisoner beyond the period of detention. It will be effective only if his detention is otherwise authorised as on the date on which he is supposed to be produced before the court issuing P.T. warrant.

14. The decision of the Apex court in **Ram Dass Ram v. State of Bihar and Anr., AIR 1987 SC 1333** will make it abundantly clear that the issuance of P.T. warrant cannot be construed to be an order of remand. A person, committed or granted bail in the cases in which he was remanded to judicial custody, cannot be detained further on the sole ground that a P.T. warrant has been issued by another court. In the said



case decided by the Supreme Court, the accused was acquitted in two Sessions cases in which he had been remanded and even after the acquittal in those cases he was continued to be detained in the prison on the basis of a P.T. warrant issued for his trial in another case. Such a detention was held to be unjustified. The facts of the case before the Supreme Court reveal that there was no warrant (remand order) for detaining the detenu in jail in the third case in which P.T. warrant was issued or in any other case after the detenu had been acquitted in the two cases in which he had been remanded....

16. Hence, we are convinced with the contention of the learned Counsel for the Petitioner that the continued detention of the Petitioner beyond 19.6.2006, the date on which the bail bond was received by the Superintendent of Prisons, Central Prison, Coimbatore, is illegal and this Court has to issue a direction for his release, especially when it is not the case of the Respondents that he has been remanded in any other case or his continued custody is authorised in connection with any other case."

(b).In the decision reported in **2008(1) MLJ (Cr1) 434**, in the case of ***Hari @ Man Road Hari vs. State represented by Station House Officer, Killai Police Station***, a learned single Judge of this court relying on the decisions of the Hon'ble Supreme Court reported in **1988(L.W. (Cr1) 304 in the case of Simranjit Singh Mann vs. State of Bihari** and the judgement of this court reported in **2004(1)TNLR 599 (Mad)**, in the case of ***Appu @ Santhanakumar and others vs. State and others***, has held as follows:-

"6.Following the illuminating legal principles contained in the decisions of the Supreme Court and also this court, it must be held that in the absence of cancellation of bail, the Court cannot remand the accused. However, when the accused is produced on NBW, he can be remanded. It is to be reiterated that when his production is caused by means of a P.T.Warrant, the court is not at all justified to remand him. In this case, the purpose of P.T.Warrant was over and the petitioner had to be released.

6.Per contra, Mr.P.Shanmugavelayutham, the learned Public Prosecutor appearing for the State has submitted that the petitioner has involved in 17 cases and considering the gravity of the offence, the petitioner was remanded to judicial custody by the committal court.

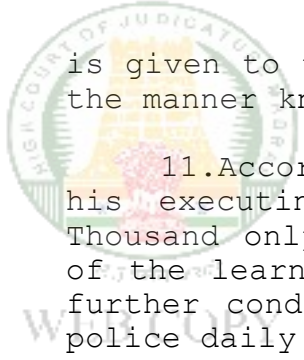
7.It is not in dispute that in respect of Crime No.432 of 2011, the petitioner was arrested and released on bail in Cr1.O.P(MD)No.13272 of 2011, dated 04.10.2011 and for the non-appearance in that case, the learned Judicial Magistrate, Thirumangalam issued P.T. Warrant on 04.09.2014, when the petitioner was in judicial custody in respect of Crime No.633 of 2014 on the file of the S.S. Colony Police station.

8.It is also not in dispute that the petitioner was granted bail on 29.10.2014 in Crime No.633 of 2014 and the bail granted in Crime No.432 of 2011 was not cancelled so far. However, the petitioner was not released in view of the order of remand passed by the learned Judicial Magistrate on the basis of the P.T Warrant issued in Crime No.432 of 2014.

9.In the light of the decisions cited supra, unless the bail is cancelled or a Non-Bailable Warrant issued against the petitioner, the petitioner cannot be remanded to judicial custody.

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10.Considering the above, this court is of the view that the petitioner is entitled for bail with certain conditions. However, liberty



is given to the respondent police to take action against the petitioner in the manner known to law.

11. Accordingly, the petitioner is ordered to be released on bail, on his executing a personal bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned VI Additional District and Sessions Judge, Madurai and on further condition that the petitioner shall appear before the respondent police daily at 10.00 a.m. and 05.00 p.m. until further orders.

sd/-
15/04/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

1 THE VI ADDITIONAL DISTRICT AND SESSIONS JUDGE, MADURAI.

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

3 THE SUPERINTENDENT, CENTRAL PRISON, VELLORE.

4 THE INSPECTOR OF POLICE
AASTINPATTI POLICE STATION, MADURAI DISTRICT.

+1. CC to M/S.R.ANAND Advocate SR.No. 18761.

TS/16.04.2015/2P-6C

ORDER
IN
CRL OP(MD) No.5290 of 2015
Date :15/04/2015