



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

Tuesday, the Sixteenth day of August Two Thousand Sixteen

PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

CRL OP(MD) No.14761 of 2016

M. MARIAPPAN

... PETITIONER/SOLE ACCUSED

Vs

THE STATE REP. BY ITS
THE INSPECTOR OF POLICE,
KARIVALAMVANTHANALLUR POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO. 338 OF 2003)

... RESPONDENT/COMPLAINANT

FOR PETITIONER : M/S.V.MUTHUVELAN, ADVOCATE

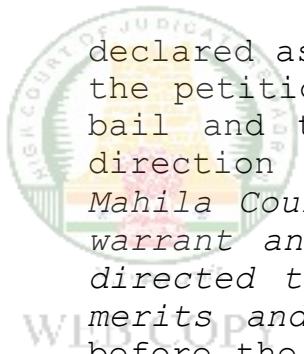
FOR RESPONDENT : Mr.P.KANNITHEVAN, GOVERNMENT ADVOCATE (CRL. SIDE)

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

ORDER : The Court Made the following order :-

The petitioner is arrayed as sole accused, who was arrested and remanded to judicial custody for the alleged offences punishable under Section 417 and 376 (1) IPC, in S.C.No.57 of 2007, on the file of the learned Sessions Judge, Mahila Court, Tirunelveli, seeks bail.

2.It is represented by the learned counsel appearing for the petitioner that the petitioner is having been charged for the offences under Section 417 and 376 IPC. The complaint is of the year 2003. After completion of investigation, the case was taken on file by the Trial Court as S.C.No.57 of 2007 and when the matter was posted on 24.04.2007, for framing charges, the petitioner did not appear before the concerned Court, hence, non-bailable warrant was issued against the petitioner. At that time, the petitioner filed Crl.O.P.(MD).No.15357 of 2015, before this Court, seeking anticipatory bail. This Court, by order, dated 07.08.2015, granted anticipatory bail to the petitioner on imposing conditions that the petitioner shall appear before the trial Court for all hearing dates without fail and the petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously and also the petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready. The petitioner did not comply the condition. Therefore, he was



declared as proclaimed offender on 30.05.2016. In the circumstances, the petitioner filed CrI.O.P.(MD).No.9192 of 2016 for anticipatory bail and this Court, by order, dated 14.06.2016, ordered with a direction that "directing the petitioner to surrender before the Mahila Court, Tirunelveli and to file a petition for recalling the warrant and learned Sessions Judge, Mahila Court, Tirunelveli, is directed to consider the same on the same day and pass orders on merits and in accordance with law". The petitioner surrendered before the Trial Court, on 11.07.2016 and produced the copy of this Court order dated 14.06.2016, but without considering the same, the Trial Judge remanded the petitioner to judicial custody and he was put in Central Jail at Palayamkottai. The learned counsel for the petitioner submitted that the petitioner was working as Nayak (No.15779990) at Pathankot in Punjab and therefore he could not comply the condition imposed by the Court.

3.The learned counsel for the petitioner further submitted that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. He further submitted that the defacto complainant is now married and have two children. Due to the civil dispute, the petitioner's name has been falsely implicated in this case and prays for bail.

4.The learned Government Advocate (Criminal Side) submitted that the petitioner was employed as Telephone Operator in Army Aid Defence Record in North India. The petitioner did not comply the condition imposed by this Court and therefore he was declared as proclaimed offender. If the petitioner is enlarged on bail, he will again abscond and the trial cannot be proceeded with.

5.Considering the nature of allegations against the petitioner and the alleged offence took place in the year 2003 and also by considering the contention of the learned counsel for the petitioner that the petitioner was working as Nayak in the Indian Army, he could not appear before the Court, this Court is inclined to enlarge the petitioner on bail with certain conditions. Accordingly, the petitioner is ordered to be released on bail, subject to the following conditions:

- (i) the petitioner shall execute a 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 Sessions Judge, Mahila Court, Tirunelveli.
- (ii) the petitioner shall report before the concerned Court daily for three weeks and thereafter in all future hearings.
- (iii) the petitioner shall not tamper with evidence or witness either during investigation or trial.
- (iv) the petitioner shall not abscond either during investigation or trial.
- (v) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the



petitioner in accordance with law as if the conditions have been imposed and the petitioner 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]**.

6.The Inspector of Police concerned is directed to send a compliance report to the office of the learned Government Advocate, as to whether the petitioner is complying with the condition or not.

sd/-
16/08/2016

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

TO

1. THE SESSIONS JUDGE,
MAHILA COURT, TIRUNELVELI.
 2. THE INSPECTOR OF POLICE,
KARIVALAMVANTHANALLUR POLICE STATION,
TIRUNELVELI DISTRICT.
 3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
 4. THE SUPERINTENDENT,
CENTRAL PRISON,
TIRUNELVELI.
- +1. CC to M/S.V.MUTHUVELAN Advocate SR.No. 44516

ORDER
IN
CRL OP(MD) No.14761 of 2016
Date :16/08/2016

PJL
TE/DB/SAR-I : 16/08/2016 : 3P/6C