



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

Tuesday, the Thirtieth day of August Two Thousand Sixteen

PRESENT

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

CRL OP(MD) No.15720 of 2016

WELLINGTON @ POMMA KANNAN

... PETITIONER/ACCUSED NO.2

Vs

THE STATE REPRESENTED BY INSPECTOR OF POLICE
UVARI POLICE STATION, CR.NO. 82/2015,
TIRUNELVELI DISTRICT.

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.V.KATHIRVEL, SENIOR COUNSEL FOR K.PRABHU
Advocate

For Respondent : M/S.P.KANNITHEVAN Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

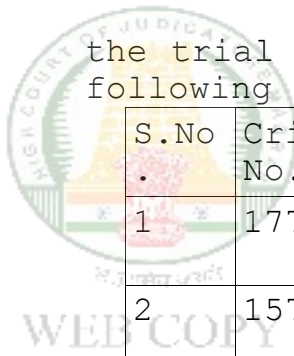
The petitioner who is arrayed as accused no.2 was arrested and remanded to judicial custody on 05.08.2016 for the alleged offences punishable under Sections 294(b), 342, 302 and 506(ii) of IPC r/w. Section 34 of IPC, in S.C.No.256 of 2016 on the file of the IV Additional District and Sessions Judge, Thirunelveli and hence, seeks bail.

2.The case of the prosecution is that due to previous motive the petitioner along with other accused attacked the deceased with knife and committed murder of the deceased. On complaint, a case has been registered for the above said offences.

3.The case of the petitioner is that the petitioner was already arrested and enlarged on bail and the case was posted for trial on 04.08.2016. On that day, the petitioner did not appear before the trial Court and therefore, NBW was issued against the petitioner and the same was executed and he was arrested on 05.08.2016. According to the petitioner, he is a fisherman and he went for fishing and he could not return from the sea, due to the whether condition and he is in judicial custody from 05.08.2016.

4. The learned Senior Counsel appearing for the petitioner submitted that the petitioner will appear before the trial court on all future hearing dates and prays for enlarging the petitioner on bail.

5. The learned Government Advocate (Crl. Side) submitted that the case was posted for examination of witnesses on 04.08.2016 and the witnesses were present, but, the petitioner did not appear on that day. Due to the non appearance of the petitioner on 04.08.2016



the trial could not be proceeded with and the petitioner is having following six previous cases in the respondent police station.

S.No	Crime No.	Sections	Stage
1	177/11	294(b), 323, 324, 341 and 506(ii) of IPC	PT CC-83/13, JM Valliyoor
2	157/12	147, 148, 294(b), 353, 307, 427 IPC and 5 TNPPDL Act	UI
3	158/12	147, 148, 294(b), 307, 436 of IPC and 4 of TNPPDL Act	UI
4	159/12	147, 148, 294(B), 307, 436 IPC and 4 of TNPPDL Act	UI
5	160/12	147, 148, 149, 427 of IPC and 3 of TNPPDL Act	UI
6	33/13	147, 148, 294(b), 324 and 506(ii) of IPC	PT CC 358/13 JM Valliyoor

He further submitted that in all the above said cases he was arrested and enlarged on bail. If the petitioner is enlarged on bail, he will abscond and he will not appear before the trial Court and the trial cannot be proceed with and prayed for dismissal of this petition.

6. Considering the reasons given by the petitioner for his non appearance before the trial Court on 04.08.2016 and he is in judicial custody from 05.08.2016, 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 Judicial Magistrate, Valliyur;

(ii) the petitioner shall report before the concerned Court daily 10.00 am for a period of four weeks, on all working days and thereafter, he shall appear before the trial Court on all future hearing dates without fail.

(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 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 **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

sd/-

30/08/2016

/ TRUE COPY /



TO

- 1 THE JUDICIAL MAGISTRATE, VALLIYOOR.
- 2 THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI.
- 3 THE INSPECTOR OF POLICE, UVARI POLICE STATION,
TIRUNELVELI DISTRICT.
- 4 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.K.PRABHU Advocate SR.No.48200

trp

JA-DB-SAR.LIB/30.08.2016/3P:7C

ORDER IN
CRL OP(MD) No.15720 of 2016
Date :30/08/2016