

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Ninth day of July Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL ORIGINAL PETITION No.13082 of 2018

EAMPERAMAN

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY ITS,
THE STATION HOUSE OFFICER,
ROSHANAI POLICE STATION,
VILLUPURAM DISTRICT
CR.NO.361 OF 2003.

[RESPONDENT]

For Petitioner : M/S.G.MOHANAKRISHNAN Advocate

For Respondent : MR.C.RAGHAVAN, Govt. Advocate O/O PUBLIC PROSECUTOR

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

This is the fifth bail application and the earlier bail applications were dismissed on the ground that the case was not committed to the Court of Session.

2 It is the case of the prosecution that on 25.08.2003, the petitioner and the other accused had attacked one Balamurugan indiscriminately and attempted to murder him. Hence, a case in Cr. No.361 of 2003 was registered against Purushothaman (A1), Rajkumar (A2), Suresh (A3) and Emperaman (A4/petitioner herein). During investigation, this petitioner was arrested and was released on bail. After completing the investigation, charge sheet was filed and the petitioner was in abscondence. The charge sheet was taken on file as P.R.C. No.17 of 2004 by the Judicial Magistrate No.I, Tindivanam. Non bailable warrant was issued against the petitioner and ultimately, he was arrested by the police only on 04.04.2017 and since then, he has been in incarceration. The case has now been committed to the Court of Session and is now pending trial in S.C. No.50 of 2018 before the Additional Assistant Sessions Judge, Tindivanam.

3 It is necessary to state here that the co-accused are still in abscondence and the petitioner alone is available for trial and therefore, the cases against the co-accused have been split up.

4 Taking into consideration the fact that the petitioner has been in incarceration since 04.04.2017, this Court is of the view that interests of justice will be subserved, if the petitioner is granted bail, however, without specifying the surety amount and other requirements, as it should be left to the Trial Court to obtain the necessary sureties in order to ensure that the petitioner does not abscond.

5 Accordingly, the petitioner is directed to be released on bail on he executing a bond to the satisfaction of the Additional Assistant Sessions Judge, Tindivanam on bond and other conditions imposed by the learned Judge and on further conditions that:

i The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

ii The petitioner shall engage an advocate and undertake to cross-examine the witnesses on the day they are examined in chief as held by the Supreme Court in **Vinod Kumar vs. State of Punjab [2015(1) MLJ (Cr1) 288]**.

iii The petitioner shall deposit his passport, if any, with the Trial Court and in the event, the petitioner does not have passport, he shall file an affidavit to that effect.

iv The petitioner shall not tamper with the evidence or witness either during investigation or trial

v The petitioner shall report before the Trial Court every Monday at 10.30 a.m., until the said condition is modified by the Trial Court.

Vi The petitioner shall not abscond either during investigation or trial.

vii 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]**.

viii If the petitioner absconds, a fresh FIR can be registered against him under Section 229-A IPC.

6 It is made clear that this bail order will come into effect only after the charges are framed and it is also made clear that the Additional Assistant Sessions Judge, Tindivanam, shall test the sureties and may also impose a condition that one surety should be

his wife or a blood relative.

7 The Trial Court is directed to complete the trial within a period of three months from the date of receipt of a copy of this order. If, after release on bail, the petitioner adopts any dilatory tactics, he can be remanded to custody under Section 309 Cr.P.C. in the light of the law laid down in **State of Uttar Pradesh v. Shambhu Nath Singh [JT 2001 (4) SC 319]**.

-sd/-

09/07/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE ADDDDDDDITIONAL ASSISTANT
JUDGE, TINDIVANAM

2 THE CHIEF JUDICIAL MAGISTRATE
VILUPURAM[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

5 THE STATION HOUSE OFFICER,
ROSHANAI POLICE STATION,
VILLUPURAM DISTRICT

+1 CC to M/S.G.MOHANAKRISHNAN Advocate on payment of necessary
charges SR.NO. 12539

CRL OP.13082/2018

Date :09/07/2018

RD 10/07/2018