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

Monday, the Eighth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.172 of 2018

MANOHARAN ... PETITIONER/PETITIONER/1st ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
KULASEKARAM POLICE STATION,
KANYAKUMARI DISTRICT.
(CRIME NO.77 OF 2007) ... RESPONDENT / COMPLAINANT

For Petitioner : M/S.M.P.SENTHIL Advocate

For Respondent : MR.K.SUYAMBHULINGA BHARATHI
Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner / A1, who was arrested on 24.11.2017 for the offence punishable under Sections 397 & 414 of IPC in Crime No.77 of 2007 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner along with other accused entered into the defacto complainant's house and stolen away gold ornaments from the de-facto complainant.

3.The learned counsel for the petitioner would submit that after completing the investigation, the respondent has filed a final report and the same was taken on file in P.R.C.No.5 of 2009 and the same is pending. On 29.06.2017 due to viral fever, the petitioner was unable to either to appear or to instruct his counsel to file a proper application for condoning his absence. Therefore, NBW was issued against him and subsequently, he was arrested on 24.11.2017.

4.The learned Government Advocate (Criminal Side), submitted that there are totally four accused in this case. The petitioner is the first accused and no previous case is pending against this petitioner.

5.The submissions made by either side are considered. Even though the case is pending from 2009, based on the Non Bailable Warrant issued on 29.06.2017, the petitioner herein was arrested and

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remanded in judicial custody from 24.11.2017. Other accused in this case are all regularly appeared before the Judicial Magistrate. Further, according to prosecution, the petitioner is the first offender.

6.Considering the above facts and circumstances, this Court is inclined to grant bail to the petitioner. 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.25,000/- (Rupees Twenty Five Thousand Only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Padmanabapuram.

(ii)the petitioner is directed to appear before the Judicial Magistrate, daily at 10.00 a.m. until further orders;

(iii)the petitioner shall not tamper with the 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 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 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/-
08/01/2018

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

TO
1 THE JUDICIAL MAGISTRATE, PADMANABAPURAM.
2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
3 THE OFFICER IN CHARGE,
SUB JAIL, NAGERCOIL.
4 THE INSPECTOR OF POLICE,
KULASEKARAM POLICE STATION, KANYAKUMARI DISTRICT.
5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.M.P.SENTHIL Advocate SR.No.318

ORDER
IN
CRL OP(MD) No.172 of 2018
Date :08/01/2018

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