



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

Wednesday, the Fourteenth day of November Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP (MD) No.20352 of 2018

D.JUSTIN

... PETITIONER / ACCUSED NO.1

Vs

STATE REP.BY
THE SUB INSPECTOR OF POLICE,
PUTHUKADAI POLICE STATION,
PUTHUKADAI, KANYAKUMARI DISTRICT.
CRIME NO.355/2012

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.V.M.BALAMOZHANTHAMI, Advocate

For Respondent : Mr.K.SUYAMBULINGA BHARATHI,
Govt. Advocate (Crl. Side)

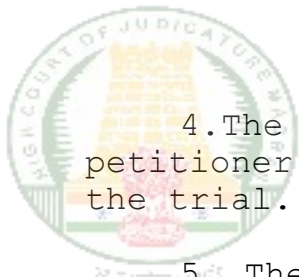
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner was arrested and remanded to judicial custody since 17.10.2018 for the offences punishable under Sections 353 and 379 IPC and Sections 4(1), 4(1-A), r/w 21(1) M.M.DR Act in Crime No.355 of 2012, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 09.10.2012, the petitioner along with other accused illegally transported sand in the tarrus lorry bearing Registration No.TN 74 V 0403, without obtaining any valid permission from the appropriate authority.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. The learned counsel for the petitioner submitted that on 07.06.2016, the Judicial Magistrate No.II, Kuzhithurai issued non bailable warrant against the petitioner for his non appearance and the petitioner came to be arrested on 17.10.2018. Thereafter, the petitioner filed recall petition before the Judicial Magistrate No.II, Kuzhithurai, which was dismissed on 25.10.2018 and the Sessions Judge, Kanyakumari, also confirmed the order of the trial Court. Aggrieved over the same, the present petition is filed.



4. The learned counsel for the petitioner undertakes that the petitioner shall appear before the trial Court and co-operate with the trial.

5. The learned Government Advocate (Crl.side) would submit that investigation is pending.

6. Considering the facts and circumstances of the case and also considering the period of incarceration of the petitioner, this Court is inclined to grant bail to the petitioner.

7. Accordingly, the petitioner is ordered to be released on bail on his executing 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 No.II, Kuzhithurai and on further condition that:

[a] the petitioner is directed to deposit a sum of Rs.5,000/- to the credit of the President, Bar Association, Kuzhithurai, Kanyakumari District.

[b] the petitioner shall report before the trial Court on every Monday at 10.30 am, for a period of three months and thereafter, on all hearing dates.

[c] the petitioner shall not abscond either during investigation or trial.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] 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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

14/11/2018

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE NO.II, KUZHITHURAI.

2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

3. THE SUB INSPECTOR OF POLICE,
PUTHUKADAI POLICE STATION,
PUTHUKADAI, KANYAKUMARI DISTRICT.



4. THE OFFICER INCHARGE, SUB JAIL,
KUZHITHURAI.

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

COPY TO:

THE PRESIDENT,
BAR ASSOCIATION,
KUZHITHURAI,
KANYAKUMARI DISTRICT.

+1. CC to Mr.V.M.BALAMOZHANTHAMBHI Advocate SR.No.21504

ORDER

IN

CRL OP (MD) No.20352 of 2018

Date :14/11/2018

MS/MMS/SAR-4/14.11.2018/3P.8C