



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 19/07/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). Nos.9975 and 9977 of 2019

Anand

... Petitioner/Accused
in both Crl.O.P(MD)s

Vs

State Rep.by
The Inspector of Police,
Eral Police Station,
Tuticorin District.
(Crime No.190 of 2013).

... Respondent/Complainant
in Crl.O.P(MD) 9975 /2019

State Rep.by
The Inspector of Police,
Eral Police Station,
Tuticorin District,
(Crime No.196 of 2013).

... Respondent/Complainant
in Crl.O.P(MD) 9977 /2019

For Petitioner : M/s.G.Pradeep Dhinakaran,
Advocate (in both Crl.O.P(MD)s).

For Respondent : Mr.V.Neelakandan,
Additional Public Prosecutor
(in both Crl.O.P(MD)s)

PETITIONS FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER in Crl.O.P(MD) No.9975 of 2019 :-

For Bail Petition in Crime No.190 of 2013 on the file of the
respondent police

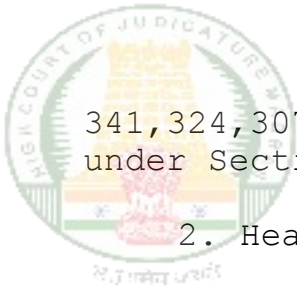
PRAYER Crl.O.P(MD) No.9977 of 2019 :-

For Bail Petition in Crime No.196 of 2013 on the file of the
respondent police.

COMMON ORDER : The Court Made the following order :-

<https://hcservices.ecourts.gov.in/hcservices/>

These petitions have been filed by the petitioner/ accused
seeking bail for the alleged offence under Sections 294(b),



341,324,307, 506(ii) of IPC in Crime No.190 of 2013 and for offences under Sections 341,384,307,506(ii) of IPC in Crime No.196 of 2013.

2. Heard both sides

3. The learned counsel for the petitioner would submit that the petitioner has not committed any offence and he has been falsely implicated in the above cases (S.C.Nos.270 of 2018 and 271 of 2018 on the file of the Assistant Sessions Court, Tiruchendur) She further submitted that initially the petitioner was on bail in the above case and subsequently he met with an accident and he could not appear before the trial court and subsequently Non Bailable Warrant was issued on 31.08.2018 and the same was executed and the petitioner was arrested on 09.09.2018 and remanded to judicial custody and from that date onwards he is in judicial custody. She further submitted that in the above cases five witnesses were examined as P.W 1 to P.W.5 and all the five witnesses turned hostile and they did not support the case of the prosecution. She further submitted that the aforesaid cases are pending for examination of the Investigating Officer for the past eight months and there is no possibility of disposing of the above said case in the near future and hence the petitioner has filed the petitions before the trial court in CrI.M.P.Nos.106 of 2019 and 105 of 2019 seeking bail and the trial court had dismissed the said applications vide order dated 21.03.2019 and therefore he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the Investigating Officer is under suspension and hence summons could not be served on him. However he fairly conceded that already P.W 1 to P.W.5 were examined on the side on the prosecution in both the cases and the said witnesses have turned hostile.

5. Merely because the Investigating Officer is under suspension, the police cannot take a plea that they are unable to serve summons on him. Even if an officer is under suspension in the proceedings of the suspension order itself clear direction would be given that the concerned officer should stay at particular place and from the said address, the police can easily ascertain the whereabouts of the Investigating Officer and serve summons. The attitude of the police cannot be appreciated. The trial court also has not taken coercive steps to secure the witness by addressing the higher officials.

6. The petitioner is in custody for more than 10 months. All the material witnesses turned hostile. Only Investigating Officer has to be examined. For examination of the Investigating Officer the matter is pending for nearly eight months. Taking into consideration of all the aforesaid facts, this Court is inclined to grant bail to the petitioner by imposing conditions:



thousand only) with two sureties each for a like sum to the satisfaction of the Assistant Sessions Court, Tiruchendur.

[b] the petitioner shall report before the Assistant Sessions Court, Tiruchendur, daily at 10.30 AM for a period of One Month and thereafter, as and when required for the interrogation.

[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/-

19/07/2019

/ TRUE COPY /

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

TO

1. THE ASSISTANT SESSIONS JUDGE, TIRUCHENDUR.

2. THE OFFICER INCHARGE, DISTRICT PRISON,
TUTICORIN.

3. THE INSPECTOR OF POLICE,
ERAI POLICE STATION, TUTICORIN DISTRICT.

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

+2. CC to M/S.G.PRADEEP DHINAKARAN Advocate SR.Nos.12012 & 12013

ORDER

IN

CRL OP(MD). Nos.9975 and 9977 of 2019

Date :19/07/2019