



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 30/07/2019

WEB COPY

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.10599 of 2019

Mohammed Rabi

... Petitioner/Accused No.11

Vs

State Rep.by
The Inspector of Police,
Lalapet Police Station,
Karur District.
(Crime No.229/2013)

... Respondent/Complainant

For Petitioner : Mr.G.KARUPPASAMY PANDIYAN, Advocate for
M/s.Ak. Azagarsami, Advocate.

For Respondent : Mr.V. Neelakandan,
Additional Public Prosecutor

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

PRAYER :-

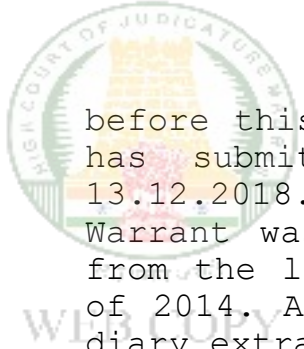
For bail in P.R.C.No.2/2014 Judicial Magistrate No.I,
Kulithalai.

ORDER : The Court Made the following order :-

This petition has been filed by the petitioner/ accused no.11 seeking bail for the alleged offence under Sections 419,363,342,397 @ 419, 363, 342, 392, 397, 395 r/w.397,109,120(b),414 and 34 of IPC

2. Heard both sides.

3. When this petition came up for hearing before this Court on 26.07.2019, the learned counsel for the petitioner has submitted that already the petitioner was on bail and after filing charge sheet, the learned Judicial Magistrate No.I, Kulithalai has taken the case on file in P.R.C.No.2 of 2014 and issued summons. He further submitted that summons was not served on the petitioner, but without assigning any reason, suddenly on 20.02.2017 the learned Magistrate has issued Non Bailable Warrant against the petitioner. He also got of the diary extract for the hearing dates viz., 29.12.2016, 25.01.2017, 20.02.2017 and 20.03.2017 and produced



before this Court, whereas the learned Additional Public Prosecutor has submitted that Non Bailable Warrant was issued only on 13.12.2018. Hence in order to ascertain the fact when Non Bailable Warrant was issued, this Court has called for the diary extract from the learned Judicial Magistrate No.I, Kulithalai in PRC No.2 of 2014. Accordingly, the learned Judicial Magistrate has sent the diary extract.

4. A perusal of the said diary extract shows that the case was taken on file in PRC No.02 of 2014 on 20.03.2014 and summons were ordered to all the accused (A1 to A16). But suddenly on 20.02.2017, without assigning any reason the learned Magistrate has issued Non Bailable Warrant against A11 (petitioner herein) and thereafter the diary runs as Non Bailable Warrant is pending against the petitioner herein (A11). Therefore the contention of the learned Additional Public Prosecutor that the Non Bailable Warrant was issued only on 13.11.2018 cannot be accepted.

5. The learned counsel for the petitioner would submit that since the petitioner was waiting for receipt of summons, he did not appear before the Magistrate, but without serving summons the learned Magistrate has suddenly issued Non Bailable Warrant. He further submitted that the petitioner was arrested by the respondent police on 25.06.2019 and was remanded to judicial custody. Therefore he requested to grant bail to the petitioner.

6. The learned Additional Public Prosecutor would submit that since Non Bailable Warrant was pending for a very long time, the learned Magistrate could not commit the case to the court of sessions and therefore he opposed to grant bail to the petitioner.

7. As per the diary extract, originally the learned Magistrate has issued only summons to the petitioner, but the said summons was not served. Even though summons was not served on the petitioner, the learned Magistrate without assigning any reason, has suddenly issued Non Bailable Warrant on 20.05.2017. Taking into consideration of the aforesaid facts and also the fact that the petitioner herein was arrested on 25.06.2019 and he is in custody from that date onwards, this Court is inclined to grant bail to the petitioner by imposing conditions:

[a] 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.I, Kulithalai.

[b] the petitioner shall report before the learned Judicial Magistrate No.I, Kulithalai daily at 10.30 on all working days until further orders.

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

30/07/2019

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

TO

1. THE JUDICIAL MAGISTRATE NO.I, KULITHALAI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KARUR DISTRICT.
3. THE OFFICER INCHARGE, SUB JAIL, KULITHALAI.
4. THE INSPECTOR OF POLICE,
LALAPET POLICE STATION, KARUR DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.G.KARUPPASAMY PANDIAN, Advocate SR.No.12501

ORDER

IN

CRL OP(MD) No.10599 of 2019

Date :30/07/2019

MS/PN/SAR-4/30.07.2019/3P.7C