

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.07.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.9184 of 2020

Palanisamy M/35 yrs,
S/o.Ramasamy,
South Street,
Vangudi Village,
Mensurity, Udayarpalayam,
Ariyalur
District.

... Petitioner

Vs.

State rep. by its
The Inspector of Police
Meensurity Police Station,
Ariyalur District.
(Cr.No.130 of 2008)

.. Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with the S.C.No.138 of 2013 pending trial on the file of the learned III Additional District Court, Salem.

For Petitioner : Mr.S.N.Arunkumar

For Respondent : Mr.Shunmugarajeswaran
Government Advocate (CrI. Side)

O R D E R

WEB COPY

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 23.01.2020 for the offences punishable under sections 147, 148, 120(b), 307, 302 (5 counts), 326, 201 r/w. 302 IPC in Crime No.130 of 2008 on the file of the respondent police in S.C.No.138 of 2013 on the file of the III Additional District Court, Salem, seeks bail.

2.It is the case of jumped bail. The learned counsel for the petitioner would submit that the petitioner was initially granted bail and was regularly appearing before the Court before. Thereafter, due to severe Jaundice, the petitioner could not appear before the trial Court 26.07.2019 and he was not able to inform his counsel about his absence. Hence, the learned Magistrate issued nonailable warrant against the petitioner and on execution of the Non Aailable Warrant, the petitioner was arrested on 23.01.2020. He further submitted that the absence of the petitioner is neither wilful nor wanton and that the petitioner undertakes to appear before the trial Court on all hearing regularly. Hence, he seeks bail to the petitioner.

3. The learned Government Advocate (Crl.Side) would submit that the petitioner had been continuously absent from 25.03.2019. Since the petitioner was absent for more than 7 hearings, the learned trial Judge issued Non Aailable warrant to the petitioner on 26.07.2019 and with very great difficulty, the warrant was executed on 24.01.2020. He further submitted that this Court by order dated 23.11.2009 in Crl.O.P.No.12993 of 2009 etc batch, had directed the trail Court to complete the trial within a period of two months. But the accused were taking turns and absenting themselves one after another due to which, the trial Court is unable to comply with the order passed by this Court.

4. He would vehemently oppose the bail petition stating that if bail is granted, the petitioner will abscond and there is a possibility of further delay. The trial Court is unable to frame charges till date.

5. Heard both sides.

6. This Court on earlier occasion had called for report from the trial Judge with regard to regularity of the petitioner in attending the trial. The report has been received in D.No.506 of 2020 dated 24.06.2020 wherein, it is stated that the petitioner is A3 in this case and that the case had been made over from the learned Principal District Court on 09.07.2013. Thereafter, Non-ailable warrant issued against the petitioner/A3 on 24.10.2013 and thereafter, the petitioner/A3 had surrendered and subsequently, he was released on bail by the Hon'ble High Court. Thereafter, again Non-ailable warrant was issued against the petitioner/A3 on 21.12.2018 and it was recalled on 23.01.2019. Once again the petitioner was absent and therefore another Non-ailable warrant was issued on 25.02.2019 and it was also recalled on 12.03.2019. Again, the petitioner absented himself and therefore, Non aailable warrant was issued on 26.07.2019 and that it was executed by the respondent police on 23.01.2020.

7. It is seen from the records that the petitioner has been irregular in appearing before the trial Court and thereby non aailable warrant has been issued against the petitioner on several occasions.

8. Taking into account the fact that the petitioner has been irregular in appearing before the Court below and this Court is of the opinion that if he is granted bail, there is every chance of absconding and it would be difficult for the respondent police to secure him once again. Further, it will also affect the progress of framing charges and further trial. Therefore, this Court is inclined to dismiss the petition. Accordingly, this Criminal Original Petition is dismissed.

-sd/-

13/07/2020

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 III ADDITIONAL DISTRICT
COURT, SALEM.

2 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

CC to M/S. S.N.ARUNKUMAR Advocate on payment of necessary
charges

सत्यमेव जयते

CRL OP.9184/2020

Date :13/07/2020

RD 18/08/2020

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