

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.9883 of 2020

Prabhu @ Prabhakaran

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Maduravayal Police Station,
Chennai,
Thiruvallur District.
Crime No.736 of 2010

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., praying to enlarge the petitioner/accused on bail and release him from the custody in connection with S.C.No.107 of 2013 in Crime No.736 of 2010 pending on the file of the respondent police.

For Petitioner : Mr.J.S.Arun Kumar

For Respondent : Mr.Iyyaparaj,
Additional Public Prosecutor

O R D E R

The petitioner, who was arrested and remanded to judicial custody on 20.12.2020 on execution of non-bailable warrant in connection with S.C.No.107 of 2013, for the offences punishable under Sections 452, 393, 394 r/w 397, 307, 336, 427 and 506(ii) of IPC in Crime No.736 of 2010 on the file of the respondent police, seeks bail.

2. The learned counsel for the petitioner submitted that the petitioner was arrested on 20.12.2020 on execution of non-bail warrant. The petitioner is facing trial in S.C.No.107 of 2013, and he is defended by a legal aid counsel. The learned counsel further submitted that the petitioner is a daily wagger and he used to work at different place, but he is always available and could be contacted through mobile phone. He further submitted that whenever the petitioner contacted the counsel appearing for him in the trial court, he was informed that whenever necessary he would be called. But, the counsel was not communicated about the trial proceedings to the petitioner and therefore he was not aware of the hearing dates. Hence, he was absent for the hearing and therefore non-bailable warrant was issued by the learned II

Additional District and Sessions Judge, Poonamallee. The learned counsel for the petitioner submitted that the absence of the petitioner was neither wilful nor wanton and he was suffering incarceration for more than six months. He further submitted that the petitioner would abide to any condition and will co-operate with the trial and seeks for grant of bail to the petitioner.

3.The learned Additional Public Prosecutor submitted that this case was registered in the year 2010 and charge sheet was filed in the year 2013 and thereafter, the case was committed for trial. In the trial, almost all the witnesses were examined and the case is at the stage of examination of the investigating officer. At this stage, the petitioner had absconded himself and therefore, non-bailable warrant was issued against him. After great efforts, the petitioner was arrested and remanded to judicial custody. At this stage, if the petitioner is granted bail it would stall the trial proceedings. He further submitted that after registration of this case, he is not involved in any other cases and the petitioner is defended by a legal aid counsel.

4.Taking into consideration the facts and circumstances of the case and considering the submission that the petitioner not involved in any other case and also that the petitioner is defended by a legal aid counsel, and also considering the period of incarceration i.e., from 20.12.2020, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(a) the petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) before the Superintendent of the concerned prison, in which the petitioner has been confined on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lock down and commencement of regular functioning of Court below, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d) the petitioner shall report before the respondent police on Mondays and Fridays at 10 a.m., and on all hearing dates before the Trial Court until further orders. If the hearing date falls on Monday and Friday, the petitioner to appear before the respondents Police on the subsequent date.

(e) the petitioner shall not commit any offences of similar nature;

(f) the petitioner shall not abscond either during investigation or trial;

(g) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) 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]**.

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

6. With the above directions, this Criminal Original Petition is ordered.

-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 II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, POONAMALLEE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE INSPECTOR OF POLICE,
MADURAVAYAL POLICE STATION,
CHENNAI, THIRUVALLUR DISTRICT.

+1CC to M/S. J.S.ARUNKUMAR Advocate on payment of necessary
charges SR NO.5718

CRL OP.9883/2020

Date :13/07/2020