



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.9940 of 2020

WEB COPY

Vellaiyan

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Jedarpalam Police Station,
Namakkal District,
Crime No.289 of 2012.

... 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 Crime No.289 of 2012 pending on the file of the respondent police.

For Petitioner : Mr.S.Aravind Raj

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

O R D E R

The petitioner who was arrested and remanded to judicial custody on 02.03.2020 on the strength of Non-Bailable Warrant issued in S.C.No.27 of 2018 on 11.02.2019. Hence, the present petition has been filed.

2.The petitioner is an accused in Crime No.289 of 2012 for the offence under Section 366(A) and 376 IPC. On conclusion of investigation, charge sheet filed in S.C.No.27 of 2018

3.The learned counsel for the petitioner submitted that the petitioner was suffering from Tuberculosis disease and he took treatment for the same at Sadhanantha Memorial Hospital, Kallakurichi, his condition worsened and hence, he continued treatment at Chennai, the medical certificates are produced. He further submitted that the petitioner's non-appearance before the trial Court was due to his health issues, the petitioner was seriously sick and he was under treatment. Hence, he prays for grant of bail to the petitioner. The petitioner prior to the attack of tuberculosis, he was regularly appearing and participating in the



4.The learned Additional Public Prosecutor for the respondent opposed the bail application, stating that the trial in this case is almost completed and the case is posted for defence witnesses, if any to be examined. At this stage, the petitioner has absented himself. Neither the petitioner nor his counsel appeared and hence the trial Court issued NBW on 11.02.2019, after 13 months the petitioner was secured and taken in custody with great difficulty. He further submitted that the petitioner is a mason and the victim is a helper, they knew each other, thereby, they developed relationship and the petitioner refused to marry the victim, therefore, the present complaint came to be lodged. He further submitted that during the petitioner's confinement in prison, the petitioner was referred to hospital for treatment. He further submitted that if the petitioner is let out on bail, he would abscond and the trial in S.C.No.27 of 2018 would get stalled and vehemently opposed for grant of bail to the petitioner.

5.Considering the rival submissions made by the learned counsel on either side and on perusal of the materials available on record, it is seen that Non Bailable Warrant was issued against the petitioner for his non-appearance, for one occasion, during the investigation and trial he has been regularly appearing. The petitioner's absence had necessitated due to his illness for his Tuberculosis, for which he initially taken treatment at Kallakurichi and thereafter at Chennai, the absence of the petitioner is during the period of his treatment, which is seen from the submissions and the medical records produced.

6.In view of the above, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

a) Accordingly, 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) thereafter, the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the Sessions Judge, Fast Track Mahila Court, Namakkal, within 15 days from the date of lifting of the lockdown and the commencement of the Court's normal functioning, 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 Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

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

[e] the petitioner shall appear before the trial Court during every hearing date without fail.



[f] the petitioner shall not tamper with evidence or witness during trial.

[g] the petitioner shall not abscond till completion of 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 petitioners 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 underSection229AIPC.

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

-sd/-

08/07/2020

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 SESSIONS JUDGE
FAST TRACK MAHILA COURT,
NAMAKKAL.

2 THE SUPERINTENDENT,
CENTRAL JAIL, SALEM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
JEDARPALAYAM POLICE STATION,
NAMAKKAL DISTRICT.

CC to M/S.A.VINUPRADHA Advocate on payment of necessary charges

CRL OP.9940/2020

Date :08/07/2020