

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2020

CORAM :

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

Crl.O.P.No.11598 of 2020

M.Theniah

... Petitioner

Vs.

State rep. by
The Inspector of Police
Valparai Police Station
Coimbatore District
(Crime No.116 of 2012)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail pending trial in S.C.No.229 of 2018 on the file of the learned Sessions Judge Magalir Neethimandram (Mahila Court) Coimbatore.

For Petitioner : Mr.R.Sasikumar

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 06.02.2020 for the offences punishable under Section 376 and 506(ii) IPC, Crime No.116 of 2012, seeks bail.

2.The learned Government Advocate (Crl. Side) would submit that the petitioner was arrested pursuant to an NBW issued by the learned Trial Judge on 05.01.2020.

3.The learned counsel appearing for the petitioner would submit that it is a jumped bail. He would further submit that it is a case of the year 2012. The petitioner was earlier granted bail and thereafter the respondent also completed investigation and filed the final report before the learned Judicial Magistrate, Valparai, thereafter, the case was committed to the learned Sessions Judge, Magalir Neethimandram (Mahila Court), Coimbatore and the same has taken up in S.C.No.229 of 2018. He would further submit that the case was posted on 05.01.2020 for engaging counsel and due to illness, the petitioner was unable to appear before the Trial Court on 05.01.2020, hence, the learned Trial Judge had issued NBW, pursuant to which, the petitioner was arrested on 06.02.2020. He would further submit that the petitioner was regularly appearing before the Trial Court except on 05.01.2020. The petitioner is in

judicial custody from 06.02.2020. He would further submit that the petitioner is ready to abide by any conditions and prepared to appear before the Trial Court on all the hearing dates and also cooperate with the progress of the trial.

4.The learned Government Advocate (Crl. Side) would submit that the case was posted for engaging counsel on 05.01.2020 and on that day, the petitioner did not appear before the Trial Court, thereby, the learned Trial Judge issued NBW on 05.01.2020, pursuant to which, the petitioner was arrested on 06.02.2020. He would further submit that the case is of the year 2012 and this Court may issue a direction to the Trial Court to complete the Trial at the earliest.

5.Taking into consideration of the facts and circumstances, considering the submissions made by the learned counsels, and also considering the period of incarceration suffered by the petitioner, 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 condition to execute 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 and thereafter on his release;

(b) Thereafter, the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, out of which one blood related surety, before the learned Sessions Judge Magalir Neethimandram (Mahila Court) Coimbatore, within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, 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 Trial Court on all the hearing dates without fail. Other than the previous day, the hearing date and subsequent day of trial, the petitioner shall report before the Vikramasingapuram Police Station, Tirunelveli District, everyday at 5.30 p.m. until further orders.

(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 Judicial 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, the Criminal Original Petition is ordered.

-sd/-

12/08/2020

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 MAGALIR
NEETHIMANDRAM (MAHILA COURT) COIMBATORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
VALPARAI POLICE STATION,
COIMBATORE DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE. सत्यमेव जयते

5 THE OFFICER INCHARGE,
VIKRAMASINGAPURAM POLICE STATION,
TIRUNELVELI DISTRICT.

CC to M/S. R.SASIKUMAR Advocate on payment of necessary charges

CRL OP.11598/2020

Date :12/08/2020

RVR 15/09/2020