

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.08.2020

CORAM :

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

Crl.O.P.No.12389 of 2020

MAHESH @ MAHESWARAN
S/o.Selvaraj

... Petitioner

Vs.

State rep by its
The Inspector of Police
Mettur Police Station
Salem District
(Crime No.128 of 2014)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in S.C.No.46 of 2015 on the file of the Additional District (Fast Track) Court, Mettur, Salem District in Crime No.128 of 2014 on the file of the Inspector of Police, Mettur Police Station, Salem District.

For Petitioner : Mr.M.Senthil Kumar

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 16.08.2019 for the offences punishable under Section 120 (B), 324, 307 and 302 IPC r/w 109 IPC, in Crime No.128 of 2014, seeks bail.

2.It is a case of jumped bail. The petitioner was arrested pursuant to P.T.warrant on 16.08.2019.

3.The learned counsel appearing for the petitioner would submit that the petitioner is arraigned as accused No.2 in S.C.No.46 of 2015 on the file of the learned Additional District Judge, Mettur. The case was posted on 04.08.2018 and the petitioner was unable to appear before this Court on that day due to ill health. As such NBW was issued against the petitioner. Thereafter the petitioner was arrested on 09.10.2018 and taken into judicial custody. This Court had dismissed the bail application of the petitioner. The petitioner has been suffering incarceration for the past 20 months.

4.The learned Government Advocate (Criminal Side) would submit that the petitioner was not regular in appearing before the Trial

Court. The Trial Court unable to proceed with the Trial thereby the Trial Court passed detailed order dismissing the bail.

5.Perused records

6.Initially the petitioner was granted bail by the Trial Court. There are totally 5 accused in this case and this petitioner is the 2nd accused. When the case was posted for framing of charges on 31.07.2018, except the petitioner, all other accused were present, petition u/s.317 Cr.P.C. filed on behalf of him was allowed and the case was posted to 01.08.2018 for framing of charges. On the said date of hearing also all other accused were present and the petitioner was absent, petition u/s.317 Cr.P.C. filed and allowed and the case was posted on 04.08.2018 for framing of charges and on such date also all other accused were present and this petitioner was absent and petition filed u/s.317 C.P.C. was dismissed and NBW was issued against him. The petitioner was produced on P.T. Warrant on 09.10.2018 and remanded to judicial custody. The charges were framed against the petitioner on 14.11.2018. Thereafter, the petitioner was released on bail on 01.12.2018. In the very next hearing i.e. 20.12.2018 and on the subsequent hearing dates on 03.01.2019, 11.01.2019 the petitioner was absent and petitions u/s.317 Cr.P.C. were filed and allowed. On 25.01.2019 the petitioner was absent, petition filed u/s.317 Cr.P.C. was dismissed by the trial Court and NBW was issued against him and on the same day notice was also issued to the accused u/s.446 Cr.P.C. The said notice was returned with postal endorsement of "absent intimation / not claimed". Therefore, the Trial court initiated proceedings against the petitioner under Section 446 Cr.P.C. and the bail bond executed by the accused was cancelled on 01.04.2019. Further more, the Head Clerk of the Trial Court was directed to lodge a complaint against this petitioner as he failed to appear and a case in Crime No.118 of 2019 of Mettur Police Station for the offence under Section 229 (A) IPC came to be registered against the petitioner and the same is pending. This petitioner has been arrested in some other case and when, he was in judicial custody, the petitioner was produced on P.T. Warrant and remanded to judicial custody on 16.08.2019 in this case.

7.Perusing the records this Court does not find any merit in the submissions made by the learned counsel for the petitioner. As narrated earlier, the petitioner was not regularly appearing before the Trial Court right from the year 2018. The Trial Court had been very lenient in allowing the applications to condone the absence of the petitioner on various occasions and each time the petitioner was instructed to be present so as to enable the Trial court to proceed with the trial of the case, whereas he had taken it for granted.

8.Considering the above fact, this Court is of the opinion that the petitioner would not appear and cooperate with the trial proceedings of this case if he released on bail. Hence, this Court is not inclined to grant bail to the petitioner.

9.This Criminal Original Petition stands dismissed accordingly.

-sd/-
24/08/2020

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.

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1 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

3 THE INSPECTOR OF POLICE,
METTUR POLICE STATION,
SALEM DISTRICT,

CC to M/S. M.SENTHIL KUMAR Advocate on payment of necessary charges

CRL OP.12389/2020

Date :24/08/2020

RD 07/09/2020

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