

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 13717 of 2020

Kathirvel

... Petitioner/1st Accused

Vs.

The Inspector of Police,
Rasipuram Police Station,
Namakkal District.

Crime No. 218 of 2011. Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in S.C.No. 146 of 2018, on the file of the Sub Court, Rasipuram.

For Petitioner : Mr.R.Nalliyappan

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 09.07.2020 for the offences punishable under Sections 120(b), 399 of IPC of IPC in Crime No. 218 of 2011, on the file of the respondent police, seeks bail.

2 The case of the prosecution is that the petitioner was found in making preparation for committing robbery along with the other accused. It is a case of jumped bail.

3 The learned counsel appearing for the petitioner would submit that the petitioner was regularly appearing before the Court and the case was posted for framing of charges. Due to his illness, he did not appear before the Court on 08.01.2020 and the Trial Court had issued non bailable warrant of arrest. Thereafter, he had intended to surrender before the Court, but the Courts were closed due to Covid pandemic and the petitioner was arrested on 09.07.2020 and he is in jail for more than 55 days. He would submit that the petitioner is a senior citizen aged 60 years and that till such time, he was regularly appearing before the Court and that he is prepared to abide by any stringent condition. Hence, he prays to grant bail to the petitioner.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner did not appear before the Court on 08.01.2020 and thereby, the learned Sub Court, Rasipuram had issued Non Bailable warrant of arrest and pursuant to which, the petitioner was arrested on 09.07.2020. He would further submit that there is no previous case pending against him. However, he opposed to grant bail to the petitioner.

5 Taking into consideration of the facts and submissions made by the learned and also considering the fact that the petitioner is in jail from 09.07.2020, 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 and thereafter on his release;

(b) the petitioner shall within 15 days from the date of lifting of lockdown or commencement of the Court's normal functioning, whichever is earlier, execute two sureties, each for a sum of Rs.10,000/- (Rupees Ten Thousand only), before the learned Sub Court, Rasipuram, 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 report before the respondent police everyday at 05.30 p.m., until further orders and he shall ensure that he will appear before the Trial Court on all hearing dates.

(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, this Criminal Original Petition is ordered.

-sd/-
04/09/2020

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 SUB COURT,
RASIPURAM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

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

WEB COPY

CRL OP.13717/2020

Date :04/09/2020

cs 08/09/2020