

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.10.2020

CORAM :

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

CRL.O.P.No.15715 of 2020

ASHOK KUMAR

... Petitioner

Vs.

The State Rep. by
The Sub Inspector of Police
Vellore Taluk Police Station
Vellore District
(Crime No.1455 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.1455 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.E.Kannadasan

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 16.09.2020 for the offences punishable under Section 25(1)(a) of Arms Act 1959, 9(B)(1)(b) of Explosives Act, in Crime No.1455 of 2020, on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant, Velmurugan is that while they were conducting regular inspection in the reserved forest area, they had seen the country made gun abandoned along with disposal cover with 100 grams of Sulfur powder and two iron pellets. Later, during the course of investigation, it was found that the petitioner is the owner of the gun and he had left his unlicensed gun in the reserved forest area and fled from the scene of occurrence on seeing the forest officials.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner is not the owner of the gun and he was arrested only on suspicion.

4.The learned Government Advocate (Criminal Side) would vehemently oppose stating that the petitioner is the owner of the unlicensed country made gun and he had entered into the forest area and on seeing the forest officials he had abandoned the country made gun and disposal cover with 100 grams of Sulfur powder and two iron pellets and the same was recovered from the scene of occurrence on 09.09.2020 and the petitioner was arrested on 16.09.2020. He would further submit that there is no previous cases pending against the petitioner.

5.Taking into consideration of the facts and circumstances and the submissions made by the learned counsels and 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 a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Vellore, and on further conditions that;

(b) 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;

(c) the petitioner on his release from prison, shall report before the respondent police daily at 10.30 a.m. until further orders.

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

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

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

(g) 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];

(h) 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/-
06/10/2020

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 JUDICIAL MAGISTRATE,
NO.I, VELLORE.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION]

3 THE OFFICER INCHARGE
SUB-JAIL, GUDIYATHAM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUB INSPECTOR OF POLICE,
VELLORE TALUK POLICE STATION,
VELLORE DISTRICT.

CC to M/S.E.KANNADASAN Advocate on payment of necessary charges

सत्यमेव जयते

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Date :06/10/2020

cs 07/10/2020