

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2020

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.16920 of 2020

K.Manikandan

... Petitioner

Versus

State rep by

The Inspector of Police

Nagapattinam Town Police Station,

Nagapattinam District.

(Crime No.162 of 2015)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.162 of 2015 on the file of the respondent police.

For Petitioner : Mr.P.Muthamizhselvakumar

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

O R D E R

(This case has been heard through Video Conferencing)

The petitioner who was arrested and remanded to judicial custody on 06.10.2020 for the offences publishable under Sections 147, 148, 302, 342 read with 34 of Indian Penal Code, in Crime No.162 of 2015 on the file of the respondent police, seeks bail.

2. It is a case of jumped bail. The petitioner was arrested on 06.10.2020 pursuant to the non bailable warrant issued against the petitioner on 30.09.2020.

3. The learned counsel for the petitioner would submit that the petitioner was earlier arrested and subsequently released on bail and thereafter, he was regularly appearing before the Court in P.R.C.No.6 of 2018. Thereafter, due to Covid situation, the petitioner was unable to appear before the Court on 30.09.2020 and thereby, the trial Court had issued non bailable warrant against the petitioner pursuant to which, the petitioner was arrested and remanded to judicial custody on 06.10.2020.

Thereafter, the petitioner filed a petition before the lower Court seeking for bail and the same was dismissed on 16.10.2020. In the meantime, two other accused surrendered before the Court to recall the warrant issued against them and the same was allowed. He would further submit that A1 has gone to abroad and due to his absence, the committal proceedings could not be completed. He would submit the absence of the petitioner is neither willful nor wanton. Hence, he prays for grant of bail.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the case is of the year 2015 and it is pending in P.R.C.No.6 of 2018 on the file of the Judicial Magistrate-I, Nagapattinam. He would submit that the petitioner did not appear before the Court on 30.09.2020 and thereby, the trial Court had issued NBW against the petitioner and he was arrested on 06.10.2020 on execution of NBW. He would submit that A1 in this case is absconding and all the accused have been taking turn in absenting themselves one after another and thereby the learned Magistrate is unable to complete the committal proceedings.

5. Heard the learned Counsels and perused the materials placed on record.

6. It is seen that NBW issued against two other accused has been recalled by the learned Magistrate. However, the petition filed by the petitioner seeking for bail has been dismissed. It is also seen that A1 is absconding and due to non appearance of A1, the Magistrate is not able to complete the committal proceedings.

7. Considering the above facts and circumstances of the case and the submissions made by the learned Counsels and considering the period of incarceration, this Court is inclined to grant bail to the petitioner subject to the following conditions;

8. Accordingly, the petitioner is directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only) to the credit of Crime No.162 of 2015 and on such deposit, the petitioner is ordered to be released on bail on his executing 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-I, Nagapattinam, and on further conditions that:-

[a] 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.

[b] the petitioner is directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only) to the credit of Crime No.162 of 2015 before executing the bond.

[c] the final order in respect of the said deposit shall be passed by the learned trial Judge at the conclusion of trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] the petitioner shall report before the trial Court daily at 10.30 a.m. until further orders.

[g] the investigating officer shall scrupulously ensure that the petitioner complies with all conditions hereby imposed and shall report breach of conditions, if any promptly to the learned Magistrate/Trial Court.

[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 petitioner released on bail by the learned Magistrate/Trial Court himself as held by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala reported in (2005)AIR SCW 5560.**

[i] If the accused thereafter absconds, (I) a fresh FIR can be registered under Section 229A IPC. (II) the amount deposited as per clause (b) shall be forfeited and the same shall be remitted to the Government/victim.

9. The respondent police is directed to arrest A1 in this case and produce him before the concerned Magistrate for committal proceedings within a period 10 days from today failing which, the Superintendent of Police, Nagapattinam, shall appear before this Court on 02.11.2020.

10. Post the matter on 02.11.2020 for reporting compliance.

-sd/-
22/10/2020

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 -I,
NAGAPATTINAM

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM DISTRICT [FOR INFORMATION]

3 THE SUPERINTENDENT,
DISTRICT PRISON, NAGAPATTINAM

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
NAGAPATTINAM TOWN POLICE STATION,
NAGAPATTINAM DISTRICT

Copy to:

THE SUPERINTENDENT OF POLICE,
NAGAPATTINAM

CC to M/S. P.MUTHAMIZHSELVAKUMAR Advocate on payment of
necessary charges

GKS:22/10/2020

CRL OP.16920/2020

Date :22/10/2020

WEB COPY