

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

CrI.O.P.No. 17783 of 2020

Kumar @ Nellai Kumar @ Jayakumar @ Siluvaikumar

... Petitioner/Accused

Vs.

The State represented by, ... Respondent/Complainant

The Inspector of Police,
Velipalayam Police Station,
Nagapattinam District.
(Crime No.499 of 2006)

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 499 of 2006, on the file of the respondent police.

For Petitioner : Mr.R.Rajasekaran

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (CrI. Side)

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 08.08.2020 for the offences punishable under Sections 120 (b), 147, 148 of IPC and 3 & 4 of Explosives Substances Act, in Crime No. 499 of 2006 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that a complaint was lodged by one Sivagami stating that the accused persons viz., Sundarrajan and his brother Srinivasan @ Madhavan were residing in upper floor of her house and on 22.07.2009 at 01.15 p.m., while she was performing household works, a country bomb was exploded and bricks were scattered upon the nearby houses. Therefore, on the complaint given by the defacto complainant, said Sundarrajan and his brother Srinivasan were arrested and remanded to judicial custody on 23.07.2006. After enquiry, the respondent police had filed a charge sheet in P.B.C No.18 of 2007 before the Lower Court and thereafter

the case was split up and thereby, a case was registered against the present petitioner in P.R.C.No.01 of 2009 before the Judicial Magistrate No.II at Nagapattinam and the same is pending for committal.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he is no way connected with the present case and that till his arrest he is not having knowledge of the above case. The Petitioner is not a named accused. No summons was served on the petitioner, earlier to the remand the petitioner has been residing with his family in the above address for the past several years. He would submit that the petitioner has been suffering incarceration from 08.08.2020. Hence, he prays to grant bail to the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that on the complaint given by the defacto complainant, the petitioner along with the other accused have been arrested on 23.07.2006. He would further submit that the respondent police had filed a charge sheet in P.R.C.No.18 of 2007 before the Lower Court and thereafter, the case was split up and thereafter, a case was registered against the present petitioner in P.R.C.No.01 of 2009 before the Judicial Magistrate No.II at Nagapattinam and the same is pending for committal and thereafter, the petitioner was arrested on 08.08.2020. Hence, he opposed to grant bail to the petitioner.

5.Taking into consideration the facts and submissions made by the learned counsels further from the communication received from the Judicial Magistrate -II Nagapattinam, it is seen that absconding charge sheet filed and NBW was issued against the petitioner, strait away without summoning notice, and the petitioner is in judicial custody from 08.08.2020, 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 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.II, Nagapattinam 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 shall appear before the Judicial Magistrate No.2, Nagapattinam and thereafter to appear before the TADA Court till the charges are framed, on all the hearing dates.

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

(e) the petitioner shall not abscond either during investigation

(f) 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 abscond, a fresh FIR can be registered under Section 229A IPC.

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-

30/11/2020

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.II,
NAGAPATTINAM.

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
VELIPALAYAM POLICE STATION,
NAGAPATTINAM DISTRICT.

4 THE PUBLIC PROSECUTOR, सत्यमेव जयते
HIGH COURT, MADRAS.

5 THE JAILER,
SUB-JAIL, NAGAPATTINAM.

+1 CC to M/S. R.RAJASEKARAN Advocate on payment of necessary charges SR.NO.7817

CRL OP.17783/2020

Date :30/11/2020

TA-02/12/2020