

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.18880 of 2020

Vijay

... Petitioner

Vs.

The State rep. By
The Inspector of Police
Viruthampet Police Station
Vellore District
Crime No.72 of 2017

... Respondent

Prayer: Criminal Original Petition filed under Section 439 of Criminal Procedure Code, praying to enlarge the petitioner on bail in PRC No.21 of 2018 on the file of the Judicial Magistrate No.III, Vellore, Vellore District in Crime No.72 of 2017 on the file of the respondent police.

For Petitioner : Mr.Sathish Kumar

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 12.10.2020, pursuant to the NBW issued by the Judicial Magistrate No.III, Vellore, Vellore District in PRC No.21 of 2018, for the alleged offences under Sections 392, 397, 120B, 341, 294(b), 394, 114 and 109 of IPC, in Crime No.72 of 2017 on the file of the respondent police, seeks bail.

2. The learned counsel for the petitioner would submit that earlier, this petitioner was granted bail and thereafter, he had been appearing before the Judicial Magistrate No.III, Vellore, regularly. Subsequently, since the petitioner did not appear before the said Magistrate, NBW was issued against him for his non appearance and he recalled the same. Thereafter, the petitioner had been directed to appear on summons on 02.08.2020. On that day, the petitioner could not appear before the lower Court due to sudden illness of his mother and he is the only person to take care of his mother and hence, he was unable to attend and inform his counsel. In view of the same, NBW has been issued and

thereafter, the petitioner has been remanded on 12.10.2020 and he has been in judicial custody for the past 52 days and since one of the accused viz., A15 is absconding, proceedings under Section 207 of Cr.P.C could not be completed. He would further submit that the petitioner undertakes to appear before the committal Court during every date of hearing without fail.

3. The learned Public Prosecutor appearing for the respondent would submit that initially the petitioner was granted bail and thereafter, he did not appear before the Committal Court and therefore, NBW was issued against him and he was arrested on 12.10.2020. He would further submit that there is no previous case against the petitioner. However, he vehemently opposed to grant bail to the petitioner.

4. Taking into consideration the facts and circumstances of the case and also the period of incarceration undergone by the petitioner and the petitioner undertakes to appear before the Committal Court during every date of hearing without fail, 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 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 No.III, Vellore, Vellore District**, and on further condition that:

[b] 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.

[c] the petitioner shall appear before the Committal Court on all hearing dates without fail.

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

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

[f] 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 laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
02/12/2020

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.III,
VELLORE.

2 THE CHIEF JUDICIAL MAGISTRATE,
VELLORE [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE PUBLIC PROSECUTOR,
HIGH COURT, PUDUCHERRY.

5 THE INSPECTOR OF POLICE,
VIRUTHAMPET POLICE STATION,
VELLORE DISTRICT.

6 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

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

WEB COPY CRL OP.18880/2020
Date :02/12/2020

MN-03/12/2020