

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.12.2020

CORAM :

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

CRL.O.P.No.19366 of 2020

Pugazh @ Pugazhendhi

... Petitioner/Accused-3

-Vs-

The State by ...Respondent/Complainant

The Sub-Inspector of Police,

S.H.O. Reddichavadi Police Station,

Cuddalore District.

(Crime No.58 of 2017)

Prayer: Criminal Original Petition is filed under Section 439 of Cr.P.C, to enlarge the petitioner on bail pending investigation in Crime No.58 of 2017 on the file of the respondent police.

For Petitioner : Mr.N.U.Prasanna

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

ORDER

(The cases have been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 09.03.2020 for the offence punishable under **Sections 147, 148, 341, 506(ii), 302, 379, 120(b), 149 and 404 IPC** in Crime No.58 of 2017, seeks bail.

2. The learned Counsel for the petitioner would submit that the petitioner is an accused in Crime No.58 of 2017. Initially he was arrested and remanded to judicial custody and subsequently he was enlarged on bail. Thereafter, the respondent completed the investigation and filed charge sheet and the case was taken up in PRC.No.32/2017 before the learned Judicial Magistrate-II, Cuddalore and thereafter, the petitioner was regularly appearing before the Court. While so, the petitioner was falsely implicated in another case No.6 of 2020 registered by Kirumampakkam Police

Station, Puducherry, for offence under Sections 147, 148, 341, 302, 201, 212 & Section 3 of Explosive Substances Act-1908 @ 147, 148, 341, 302, 201, 212, 120(B), & 109 of IPC r/w 149 IPC & Section 3& 4 of Explosives Substances Act 1908 following which, the petitioner was arrested and remanded at Central Prison, Kalapet, Puducherry. He would submit that since the petitioner was in prison, he was unable to appear before the Court in P.R.C.No.32 of 2017 and thereby, the learned Judicial Magistrate-II, Cuddalore, issued P.T. Warrant based on which, the petitioner was produced before the Court in Crime No.58 of 2017 and he was remanded to judicial custody on 09.03.2020. He would further reiterate that until his surrender in Crime No.6 of 2020 registered by the Kirumampakkam Police Station, Puducherry, the petitioner was regularly appearing before the Court in P.R.C.No.32 of 2017 and no warrant was pending against the petitioner. Without cancellation of bail or without issuance of any warrant, the petitioner was remanded to judicial custody based on the P.T. Warrant on 09.03.2020 and he has been suffering incarceration for more than 8 months. He would further submit that the petitioner has also been granted bail in the subsequent case in Crime No.6 of 2020 registered by Kirumampakkam Police Station, Puducherry. He would further submit that co-accused in this case have been granted bail by this Court vide Crl.O.P.Nos.17372 and 19238 of 2020 by orders dated 05.11.2020 and 07.12.2020 respectively. Hence, he seeks for bail.

3. The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner was originally arrested in Crime No.58 of 2017 registered by the respondent police and he was granted bail. Thereafter, a charge sheet was filed and the same was taken in P.R.C.No.32 of 2017 and he was regularly appearing before the Court. Later, he was involved in another case in Crime No.6 of 2020 registered by Kirumampakkam Police Station, Puducherry, pursuant to which, he was confined at Central Prison, Kalapet, Puducherry. Thereafter, he was produced in this case on P.T. Warrant on 09.03.2020.

4. Heard the learned Counsel on either side. Perused the materials placed on record.

5. Taking into consideration of the facts and submissions made by the learned counsels and the fact that co-accused in this case have been granted bail by this Court and also taking into consideration of 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.15,000/- (Rupees Fifteen Thousand only), with two sureties** each for a like sum to the satisfaction of the **Judicial Magistrate-II, Cuddalore**, 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 appear before the learned Judicial Magistrate-II, Cuddalore, everyday 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/-

08/12/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

सतयमेव जयते
Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE - II,
CUDDALORE.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
S.H.O. REDDICHAVADI POLICE STATION,
CUDDALORE DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

CC to M/S.N.U.PRESSANNA Advocate on payment of necessary
charges

CRL OP.19366/2020

Date :08/12/2020

TA-09/12/2020



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