



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 26/05/2020

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PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD) .No.5446 of 2020

Mohan @ Mohanraj

... Petitioner/ Petitioner/
Accused No.2

Vs

State Rep.by
The Inspector of Police,
Uchipuli Police Station,
Ramanathapuram District.
(Crime No.18 of 2020)

... Respondent/ Respondent/
Complainant

For Petitioner : M/s.S.Sathya Chidambaram,
Advocate.

For Respondent : Mr.A.Robinson,
Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

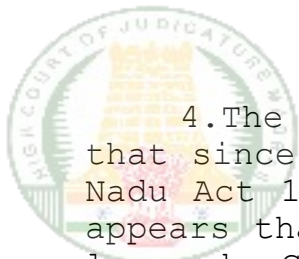
for Bail in Crime No.18 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl. Side) appearing for the respondent.

2. The petitioner is figuring as second accused in Crime No.18 of 2020 registered on the file of the Inspector of Police, Uchipuli Police Station, Ramanathapuram District, for the offences under Sections 294(b), 336, 332 and 307 of IPC.

3.The petitioner's earlier bail petition was dismissed by me on 05.02.2020. The petitioner is in custody since 10.01.2020. More than 90 days have elapsed. Admittedly, final report has not been filed so far.



4.The learned Government Advocate (Crl.side) would point out that since the case involved an attack of a police personnel, Tamil Nadu Act 14 of 1982 was invoked against the petitioner herein. It appears that the said proceedings have been quashed. But then, the learned Government Advocate (Crl.side) is yet to get firm instructions on this. If the detention proceedings are still alive and have not been quashed, obviously, the petitioner cannot come out. If the proceedings have been quashed, the question is whether the petitioner should be in detention.

5.I am conscious that my earlier order that even during corona times, notwithstanding the general direction passed by the Hon'ble Supreme Court, the accused should be entitled to the benefit of default bail has been dissented from and that the matter is pending before the Hon'ble Division Bench. Since as of now, the earlier order passed by me has not been overruled as incorrect, I am inclined to adopt the same yardstick in the present case also. Since final report has not been filed within the statutory period, I hold that the petitioner is entitled to compulsive bail. Bail is ordered accordingly.

6. Accordingly, the petitioner is ordered to be released on bail, subject to the following conditions;

(i) the petitioner shall 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, Ramanathapuram.

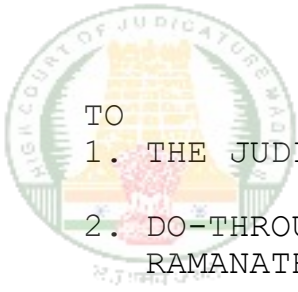
(ii) the petitioner is directed to appear before the respondent police as and when required for the interrogation.

(iii) 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].

sd/-
26/05/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1. THE JUDICIAL MAGISTRATE NO.II, RAMANATHAPURAM.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
3. THE SUPERINTENDENT,CENTRAL PRISON, MADURAI.
4. THE INSPECTOR OF POLICE,
UCHIPULI POLICE STATION, RAMANATHAPURAM DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.5446 of 2020

Date :26/05/2020

MS/PN/SAR-2/26.05.2020/3P.6C