



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 24/06/2020

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PRESENT

**The Hon`ble Mr.Justice RMT.TEEKAA RAMAN**

CRL OP(MD) . No.6214 of 2020

Saravanan

... Petitioner

Vs

State Rep.by  
The Inspector of Police,  
D.C.B.Police Station,  
Kanyakumari District.  
Crime No.31 of 2019.

... Respondent

For Petitioner : M/s.S.Muthalraj,  
Advocate.

For Respondent : Mr.V.Neelakandan,  
Additional Public Prosecutor

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

**PRAYER :-**

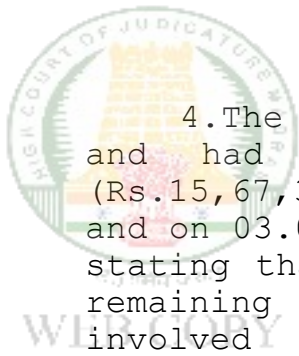
To release the Petitioners on Bail in Cr.No. 31 of 2019 on the file of the Respondent Police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

2.The petitioner, who was arrested and remanded to Judicial Custody on 31.01.2020 for the offences punishable under section 420 of I.P.C., in Crime No. 31 of 2019 on the file of the respondent police, seeks bail.

3.The learned counsel for the petitioner stated in the petition filed through online that the petitioner was arrested and remanded on 31.01.2020 and he is inside the jail for more than 90 days. Till date investigation not completed and the respondent police not yet filed the final report. The petitioner already filed the bail petition under Section 167(2) of Cr.P.C., seeking mandatory bail and the same was numbered in CrI.M.P.No.1522 of 2020.



4.The accused person involved in credit purchase of medicine and had failed to return the amount to the complainant (Rs.15,67,338/-) and the accused person was arrested on 31.01.2020 and on 03.02.2020, the wife of the accused person filed an affidavit stating that she is ready to pay Rs.7 lakhs then and there and the remaining amount on 06.04.2020 and in toto the accused person has involved in cheating (including complainant) for a tune of Rs.32,23,073/- and the earlier application in Crl.M.P.No.1522 of 2020 has been dismissed on 05.05.2020.

5.The learned Additional Public Prosecutor submitted that charge sheet has not been filed and the matter is under investigation. Earlier bail was granted with condition, however condition has not complied with therefore, default bail does not arise.

6.In Crl.R.C.No.257 of 2018, in a case of Gopinath Vs. State represented by Inspector of Police, Central Crime Branch, Salem City, learned Brother Judge has held that even when conditional order of bail was granted eariler, non-compliance of conditional bail does not bar the petition under default clause and held that the petition under Section 167(2) Cr.P.C. is maintainable.

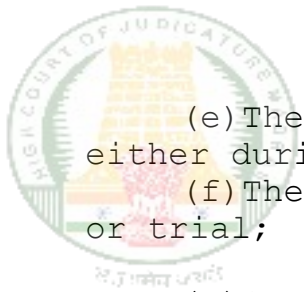
7.Taking note of the fact that charge sheet has not been filed within stipulated time invoking power under Section 167(2) of Cr.P.C., I am inclined to enlarge the petitioner on bail subject to the condition that the petitioner shall deposit a sum of Rs.8,00,000/- to the credit of crime No. 31 of 2019 before the learned Judicial Magistrate Court No.I, Nagercoil, Kanyakumari District.

(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, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Judicial Magistrate Court No.I, Nagercoil, Kanyakumari District;

(b)The petitioner shall deposit a sum of Rs.8,00,000/- (Rupees Eight Lakhs only) to the credit of crime No.31 of 2019 before the learned Judicial Magistrate Court No.I, Nagercoil, Kanyakumari District.

(c)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;

(d)The petitioner shall report before the respondent Police daily at 10.00 a.m., until further orders, for interrogation;



(e)The petitioner shall not tamper with evidence or witness either during investigation or trial;

(f)The petitioner shall not abscond either during investigation or trial;

(g)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]***; and;

(h)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

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

**Note :** In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE NO.I, NAGERCOIL, KANYAKUMARI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE, KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE INSPECTOR OF POLICE, D.C.B.POLICE STATION, KANYAKUMARI DISTRICT.
4. THE SUPERINTENDENT,CENTRAL PRISON, PALAYMKOTTAI, TIRUNELVELI DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.6214 of 2020

Date :24/06/2020

MS/RSK/SAR-2/24.06.2020/3P.6C