



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 26/06/2020

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PRESENT

The Hon`ble Mr.Justice RMT. TEEKAA RAMAN

CRL OP(MD) . No.6725 of 2020

Jose Bensigar,

... Petitioner/A1

Vs

The Sub Inspector of Police,
Kaliyakavilai Police Station,
Kanyakumari District.
(Crime No.870/2012).

... Respondent/Complainant

For Petitioner : M/s. N.S.Ramakrishna Dass,
Advocate.

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

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

PRAYER :-

For Bail in S.C.No.117/2015 on the file of the Sessions Judge,
Kanyakumari at Nagercoil.

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 is in custody since 12.05.2020 for the
offences under Section 294(b), 353, 506(ii), 307 and 379 of I.P.C.
r/w. Section 21(1) of Tamil Nadu Mines and Minerals (Development and
Regulation) Act, 1957 and Rule 36(A) TNM MC Rule, 1959 on the file
of the respondent police. Hence he seeks bail.

3. The petitioner was absconding for more than six months.
Hence, NBW was issued against him on 21.10.2019. He was arrested
and remanded to judicial custody on 12.05.2020.



4.The petitioner's counsel on instructions gives an undertaking that the petitioner will attend all the future hearing without any default. If he is unable to appear, his counsel will represent him and file a petition under Section 317 of Cr.P.C. On account of the petitioner, the trial will not be stalled henceforth. If this undertaking is breached, the order now passed will stand automatically vacated and the petitioner will be remanded to custody.

5. Recording the said submission, I am inclined to enlarge the petitioner on bail with certain conditions. 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 Judicial Magistrate No.I, Kuzhithurai.

(ii)The sureties shall affix his photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of his Aadhar card or Bank pass Book to ensure his identity;

(iii) The petitioner is directed to pay a sum of Rs.20,000/- (Rupees Twenty Thousand Only) by way of Demand Draft, in favour of 'The Dean, Kanyakumari Government Medical College and Hospital, Kanyakumari', on or before 11.07.2020, for the purpose of providing facilities to the Health workers, as non-refundable compensation, without prejudice his rights, since the Health workers put their lives at risk every day and play a critical role in preventing the spread of COVID-19 Pandemic;

(iv) the petitioner shall report before the respondent police daily for a period of two weeks and thereafter as and when required for interrogation.

(v) the petitioner shall not tamper with evidence or witness either during investigation or trial.

(vi) the petitioner shall not abscond either during investigation or trial.

(vii) 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].



(viii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
26/06/2020

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/ /2020

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. JUDICIAL MAGISTRATE NO.I, KUZHITHURAI.
2. DO-THROUGH :THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT.
3. THE OFFICER INCHARGE,
DISTRICT JAIL, NAGERCOIL.
- 4 THE SUB INSPECTOR OF POLICE,
KALIYAKAVILAI POLICE STATION,
KANYAKUMARI DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY To:

THE DEAN,
KANYAKUMARI GOVERNMENT MEDICAL COLLEGE AND HOSPITAL,
KANYAKUMARI

ORDER
IN
CRL OP(MD) No.6725 of 2020
Date :26/06/2020

IAS
AE/PN/SAR-II (26.06.2020) 3P 7C