

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.43 of 2021

Lokesh @ Lokeshwaran

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
Kannangkurichi Police Station,
Salem.
(Crime No.194 of 2016)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in SC.No.400 of 2016 pending on the file of the III Additional District Judge, Salem.

For Petitioner : Mr. A.Mohamed Ismail

For Respondent : Mr.M. Prabhavathy,
APP

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 06.12.2020 for the offence punishable under Sections 147, 148, 294(b), 353, &506(ii) IPC, r/w. Section 3 of T.N.P.P.D. Act 1992 in SC.No.400 of 2016 , seeks bail.

2. It is a case of jumped bail. The petitioner is the second accused is facing trial in SC.No.400 of 2016 on the file of the III Additional District Court, Salem. Since he did not appear before the trial Court on 01.12.2020, the learned Trial Judge had issued Non Bailable Warrant against the petitioner, pursuant to which, the petitioner was arrested and remanded to judicial custody on 06.12.2020. Hence, he prays to grant bail.

3. The learned counsel for the petitioner would submit that the petitioner has been regularly appearing before the trial Court and that only, on 01.12.2020, the petitioner was unable to appear before the Trial Court due to illness. Therefore, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor vehemently opposed stating that the case is pending for trial from the year 2016 and since the petitioner did not appear before the Trial Court on 01.12.2020, the Trial Judge issued NBW against the petitioner.

5. Considering the facts and circumstances of the case, and also considering 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.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned III Additional District Judge, Salem, 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 shall appear before the III Additional District Judge, Salem, on all the date of hearings, without fail;

(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/-

07/01/2021

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 III ADDITIONAL DISTRICT JUDGE,
SALEM.

2 THE INSPECTOR OF POLICE,
KANNANGKURICHI POLICE STATION,
SALEM.

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

CC to M/S.A.MOHAMED ISMAIL Advocate on payment of necessary charges

सत्यमेव जयते

CRL OP.43/2021

Date :07/01/2021

MN-08/01/2021

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