

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.391 of 2021

Palanisamy

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
Meensurity Police Station,
Ariyalur District.
(Crime No.130 of 2008)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in SC.No.138 of 2013 pending on the file of the III Additional District and Sessions Judge, Salem.

For Petitioner : Mr. P.Sathiya Murthy

For Respondent : Mr. M.Prabhavathy,
Additional Public Procedure

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 23.01.2020 for the offence punishable under Sections 147, 148, 120-B, 307, 302(5 counts), 326, 201 r/w. Section 302 of IPC in SC.No.138 of 2013, seeks bail.

2. It is a case of jumped bail. The petitioner, who is the third accused, is facing trial in SC.No.138 of 2013 on the file of the III Additional District and Sessions Court, Salem. Since he did not appear before the trial Court on 26.07.2019, 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 23.01.2020. 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 from the year 2013 and that only, on 26.07.2019, the petitioner was unable to appear before the Trial Court due to illness. He would further submit that totally there are 18 accused, out of them, NBW was issued to 14 accused and they were granted anticipatory bail. 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 2013.

since the petitioner did not appear before the Trial Court on 26.07.2019, the Trial Judge issued NBW against the petitioner.

5. Considering the facts and circumstances of the case, and the fact that similarly placed accused were granted anticipatory bail 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 and Sessions 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 and Sessions 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/-

22/01/2021

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

TRUE COPY

TO

1 THE III ADDITIONAL DISTRICT
AND SESSIONS COURT, SALEM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
MEENSURITY POLICE STATION,
ARIYALUR DISTRICT.

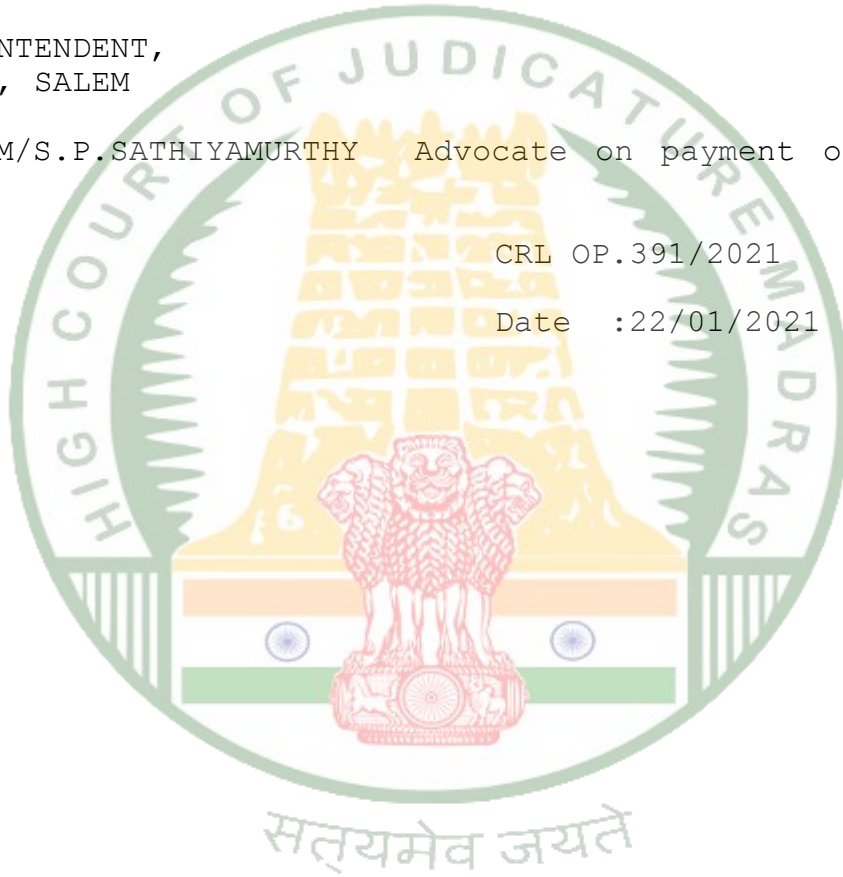
4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

CC to M/S.P.SATHIYAMURTHY Advocate on payment of necessary
charges Sr.720

CRL OP.391/2021

Date :22/01/2021

RVR 25/01/2021



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