

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.02.2021

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.1801 of 2021

Senthil @ Senthilkumar

... Petitioner

Vs.

State Rep By
Inspector of Police
Palladam Police Station
Tiruppur
(Crime No.50 of 2015)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to release the petitioner on bail in S.C.No.41 of 2016 pending on the file of learned I Additional sessions Judge, Tiruppur, in Crime No.50 of 2015 on the file of the respondent herein.

For Petitioner : Mr. M. Deivanandam

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 15.06.2020 for the offence punishable under Sections 302, 201 IPC, in Crime No.50 of 2015, on the file of the respondent police, seeks bail.

2.It is a case of jumped bail. The petitioner is an accused in S.C.No.41 of 2016, pending trial on the file of the learned I Additional Sessions Judge, Tiruppur, for the offence under Sections 302 and 201 IPC. Since the petitioner did not appear before the Trial Court on 08.04.2019, the Trial Judge issued an NBW and the petitioner was arrested on 15.06.2020 pursuant to the NBW.

3.The learned Counsel for the petitioner would submit that this is the 3rd application for bail. The first application for bail was dismissed by this Court in Crl.O.P.No.12623 of 2020 by order dated 19.08.2020 and the subsequent bail application in Crl.O.P.No.13901 of 2020 came to be dismissed on 08.09.2020. He would submit that since the petitioner had been suffering from viral fever, he was unable to appear before the Court on 08.04.2020 and despite the instruction by petitioner to file a petition under Section 317 Cr.P.C., his Counsel had not filed the application and thereby, the trial Court issued NBW against the petitioner pursuant to which, the petitioner was arrested

on 15.06.2020 and he is in custody for more than seven months. He would further submit that apart from this case, the petitioner has no other case against him. Even as per the prosecution, it is the case where the deceased had misbehaved with the wife of the petitioner and thereby, the petitioner is alleged to have committed the murder. He would further submit that the case has been taken up for trial in S.C.No.41 of 2016 and stands posted for examination of witnesses L.W.1 to 10 today i.e. 08.02.2021. He would submit that the petitioner has to engage a Counsel for conducting trial and if the petitioner is not permitted to come out on bail it would be detrimental to his case. He would further submit that the petitioner is prepared to appear before the trial Court every day. Hence, he prays for grant of bail.

4.The learned Additional Public Prosecutor would submit that the petitioner was arrested on 15.06.2020 pursuant to the NBW issued against him on 08.04.2019 and apart from this case, the petitioner has no other case against him. He would further submit that the case has been taken up for trial in S.C.No.41 of 2016 and it has been posted today i.e. 08.02.2021, for examination of witnesses L.W.1 to 10. However, he would oppose for grant of bail.

5. Taking into consideration of the facts and submissions made by the learned counsels and considering the period of incarceration suffered by the petitioner from 15.06.2020 and the fact that the case has been taken up for trial and that there is no other case against 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.20,000/- (Rupees Twenty Thousand Only) with two sureties each for a like sum to the satisfaction of the learned I Additional Sessions Judge, Tiruppur, 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 on his release from prison shall appear before the I Additional Sessions Judge, Tiruppur, in S.C.No.41 of 2016, everyday at 10.30 a.m. until further orders.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond during trial;

(f) the petitioner shall not tamper with evidence or witness during 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/-

08/02/2021

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 I ADDITIONAL SESSIONS
JUDGE, TIRUPPUR

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
PALLADAM POLICE STATION,
TIRUPPUR.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

CC to M/S.M.DEIVANANDAM
charges Sr.1235

Advocate on payment of necessary

CRL OP.1801/2021

Date :08/02/2021

RVR 08/02/2021