

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.1226 of 2021

Udhaya @ Udhaya Kumar

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
Redhills Police Station,
Thiruvallur District.
(Crime No.605/2011)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail from the Non Bailable Warrant passed in PRC.No.6 of 2013 pending before Judicial Magistrate - II, Ponneri.

For Petitioner : Mr. N.A.Hussainy

For Respondent : Mr.M. Prabavathi,
APP

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 26.09.2019 for the offence punishable under Sections 341 and 307 of IPC in Crime No.605 of 2011, seeks bail.

2. It is a case of jumped bail. Totally there are four accused. The petitioner is the second accused in PRC No.6 of 2013, which is pending for committal, on the file of the Judicial Magistrate-II, Ponneri. Since he did not appear before the Committal Court on 28.05.2019, the learned Committal Judge had issued Non Bailable Warrant against the petitioner, pursuant to which, the petitioner was arrested and remanded to judicial custody on 07.12.2020. Hence, he prays to grant bail.

3. The learned counsel for the petitioner would submit that on 28.05.2019, the petitioner was unable to appear before the committal 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 Committal from the year 2013. Since the petitioner did not appear before the committal Court on 28.05.2019, the committal Judge issued NBW against the petitioner. If the petitioner is released on bail, he may once again abscond.

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 Judicial Magistrate-II, Ponneri, 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 Judicial Magistrate II, Ponneri on all working days 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 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/-

04/02/2021

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 JUDICIAL MAGISTRATE NO.II,
PONNERI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
REDHILLS POLICE STATION,
THIRUVALLUR DISTRICT.

5 THE OFFICER INCHARGE,
SUB JAIL, PONNERI.

CC to M/S.S.N.A.HUSSAINY Advocate on payment of necessary charges

WEB COPY

CRL OP.1226/2021

Date :04/02/2021

MN-05/02/2021