

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.03.2021

CORAM :

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

CRL.O.P.No.4306 of 2021

(*) Suresh Kumar @ Sura

... Petitioner

Vs.

State represented by
The Inspector of Police,
Maduravoyal Police Station,
Chennai Police.
(Crime No.395 of 2010) Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail pending trial in P.R.C.No.4 of 2012 on the file of the Judicial Magistrate No.II, Poonamallee.

For Petitioner : Mr.A.M.Rahamath Ali

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 22.10.2020 for the offence punishable under Sections 353, 294(b), 332, 336, 427, 506(ii) & 307 IPC, in Crime No.395 of 2010 on the file of the respondent police, seeks bail.

2.It is a case of jumped bail. The petitioner is A1 in S.C.No.22 of 2021 pending trial on the file of the Sub Court, Poonamallee. Since, the petitioner did not appear before the Committal Court viz., the Judicial Magistrate No.II, Poonamallee, on 20.11.2016, the Committal Court had issued Non Bailable Warrant (NBW) of arrest, pursuant to which, the petitioner was arrested on 22.10.2020, after four years and he was remanded to judicial custody.

3.The learned counsel appearing for the petitioner would submit that the petitioner was appearing regularly before the Committal Court during the period 2012 to 2016 and that the petitioner could not appear before the Committal Court on 20.11.2016, due to his illness, thereby, the Committal Court had issued NBW of arrest, pursuant to which, the petitioner was arrested on 22.10.2020 and he

is in custody for more than 5 months. He would submit that the petitioner is a poor person and since the case is of the year 2010 and since it was not committed, the petitioner was not able to appear and thereafter, due to pandemic, he was unable to surrender. He would further submit that there are totally four accused in this case and the petitioner is arrayed as A1. A2 in this case died, A3 and A4 have been regularly appearing. He would further submit that the case has been committed to the Court of Sessions and taken up for trial in S.C.No.22 of 2021 on the file of the Sub Court, Poonamallee and charges have also been framed. He would further submit that though there are four previous cases against the petitioner, one case registered for offence under Section 302 IPC ended in acquittal and the other cases are petty in nature. He would submit that the petitioner's mother and wife are prepared to stand as surety and the petitioner is prepared to abide by any stringent condition that may be imposed on him. He would submit that the petitioner has to engage a Counsel and conduct the case and thereby, he would seek for bail.

4.The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioner was absconding for four years and now the charges have been framed and that the case stands posted on 31.03.2021 for trial.

5.Taking into consideration of the facts and submissions made by the learned counsels and the fact that the charges have been framed and the case stands posted for trial and also taking into consideration 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 out of which, one surety shall be the mother and the other surety shall be the wife of the petitioner, each for a like sum to the satisfaction of the **learned Judicial Magistrate-II, Poonamallee**, 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 Sub Court, Poonamallee, on all working days at 10.30 a.m. and also report before the respondent police every Saturday and Sunday at 05.30 p.m. until further orders. The petitioner shall not leave the jurisdictional limits.

(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

(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/-

23/03/2021

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.

[*] Amended as per order of this Court dated 23/03/2021 made in CRL.MP.NO.3569 OF 2021. in CRL.O.P.NO.4306 OF 2021.

TO

1 THE JUDICIAL MAGISTRATE-II,
POONAMALLEE.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

3 THE SUB COURT,
POONAMALLEE

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
MADURAVOYAL POLICE STATION,
CHENNAI POLICE.

6 THE SUPERINTENDENT
CENTRAL PRISON, PUZHAL

+1 CC to M/S.A.M.RAHAMATH ALI Advocate on payment of necessary charges SR.NO.3863

CRL OP.4306/2021

Date :23/03/2021