

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.2334 of 2021

C.Thangabalu

... Petitioner

Vs.

State by

The Inspector of Police,
Ethappur Police Station,
Attur Tk., Salem Dt.
(Crime No.380 of 2016)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail, who is languishing in jail in S.C.No.72 of 2017 against Crime No.380 of 2016 on the file of Ethappur Police Station, Salem District.

For Petitioner : Mr.S.Jayakumar

For Respondent : Mrs.M. Prabhavathi,
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner is arrayed as A2. The petitioner, who was arrested and remanded to judicial custody on 30.11.2020 for the execution of non-bailable warrant issued by the learned II Addl. District and Sessions Judge, Salem in S.C.No.72 of 2017 for the offences punishable under Sections 294(b), 323, 324, 326, and 302 of I.P.C. in Crime No.380 of 2016 on the file of respondent police, seeks bail.

2. Earlier, the petitioner was arrested and he was granted bail, and subsequently, he has failed to appear on 18.07.2019. Hence, the non-bailable warrant was issued. On the execution of non-bailable warrant, he was arrested on 30.11.2020 and now, he has filed this petition seeking for bail.

3. The learned counsel appearing for the petitioner submitted that he went to Kerala for the purpose of doing business. He would submit that due to lockdown announced by the Central Government, he was not able to travel from Kerala to Salem to attend the court and he is also unable to engage the counsel to file necessary application on his behalf. Hence, the petitioner did not appear before the Court on 18.07.2019 and thereby, the trial Court has issued NBW. Accordingly, he was arrested on 30.11.2020 and now, he has filed this petition seeking to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that A1 in this case already appeared and this petitioner is still absconding. Hence, the non-bailable warrant was issued and he was arrested. She would submit that now the matter is posted for trial on 19.02.2021. Hence, she opposed to grant bail to the petitioner.

5. I have heard and considered the rival submissions made by the learned counsel appearing for petitioner as well as learned Additional Public Prosecutor and perused the records.

6. Taking into consideration of the facts and circumstances, the occurrence taken place in the 2016, the petitioner is regularly appearing before the trial Court, he has failed to appear in one hearing i.e. on 18.07.2019, subsequently he was arrested and he is in jail from 30.11.2020, this Court is inclined to grant bail to the petitioner.

(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 Addl. 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, on his release from prison, shall appear before the Trial Court on all hearing dates 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.

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-
15/02/2021

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 III ADDITIONAL DISTRICT
AND SESSIONS JUDGE, SALEM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ETHAPPUR POLICE STATION,
ATTUR TALUK, SALEM DISTRICT.

+1CC to M/S.S.JAYAKUMAR Advocate on payment of necessary
charges SR NO.1609

CRL OP.2334/2021

Date :15/02/2021