

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.04.2021

CORAM :

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

Cr1.O.P.No.4471 of 2021

Venkatesan

... Petitioner

Vs.

State Rep. by
The Sub Inspector of Police,
Walajapet Police Station
Vellore District.
(Crime No.701 of 2013)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with Crime No.701 of 2013 on the file of the respondent.

For Petitioner : Mr.A.Saranraj

For Respondent : Mr.L.Charles Premkumar
Government Advocate (Cr1. Side)

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 17.10.2020 for the offences punishable under Sections 120(B), 148, 302, 201, 109, 212 IPC, in Crime No.701 of 2013, on the file of the respondent police, seeks bail.

2.It is a case of jumped bail. The petitioner is A10 in P.R.C. No.8 of 2018, pending committal on the file of the learned Judicial Magistrate No.II,Wallajapet,Vellore District. Since the petitioner did not appear before the Court on 21.10.2019,the learned Magistrate issued Non Bailable Warrant of arrest pursuant to which,the petitioner was arrested on 17.10.2020 and he is in custody till date.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would submit that on the complaint given by the Village Administrative Officer Mr.Sampath Kumar that a dead body was found, the case in Crime No.701 of 2013 was registered initially under section 176(3) Cr.P.C. by the respondent police and after investigation, the case was altered to one under Sections 120(B),

109, 148, 201, 212 and 302 IPC and the final report was filed against 12 accused and that the petitioner was arrayed as A10. He would submit that the petitioner was initially granted bail and he was regularly appearing before the Court and since, he did not appear before the Court on 21.10.2019, the Committal Court issued Non Bailable Warrant of arrest pursuant to which, the petitioner was arrested on 17.10.2020. He would submit that the case is of the year 2013 and the petitioner has been in custody for more than five months. He would further submit that apart from this case, the petitioner has got yet another case in Crime No.471 of 2013 registered for offence under Sections 399 read with Section 25 and 10 B(a) Arms Act and the final report is filed in P.R.C.No.5 of 2018 before the very same Magistrate and other than these two cases, the petitioner is not involved in any other cases. He would submit that the petitioner is prepared to abide by any stringent conditions that may be imposed on him and he is also prepared to appear before the Committal Court very day. Hence, he would seek for bail.

4. The respondent has filed status report.

5.The learned Government Advocate (Crl. Side) would vehemently opposed stating that there are 12 accused in this case and the petitioner is arrayed as A10. The respondent had completed the investigation and filed final report as early as 2018. However, the accused have been taking turns one after another in not appearing before the Court and thereby, the learned Magistrate is unable to commit the case before the Court of Sessions. He would submit that the petitioner did not appear before the Court on 21.10.2019 and thereby, Non Bailable Warrant of arrest was issued pursuant to which, the petitioner was arrested on 17.10.2020 and if the petitioner is granted bail at this stage, there is every possibility of the petitioner absconding and thereby, delaying the committal of the case once again.

6. At this stage, the learned Counsel for the petitioner would reiterate stating that the petitioner is resident of Vellore and since the respondent had not taken steps to commit the case, he had gone to Bangalore for avocation and thereby, he was unable to appear before the Court on 21.10.2019. He would submit that the petitioner undertakes to appear before the Committal Court everyday and after committal before the Sessions Court everyday. He would submit that the petitioner is prepared to furnish sufficient sureties.

7. It is seen that the petitioner has been arrested pursuant to the issuance of Non Bailable Warrant and apart from this case, the petitioner has got yet another case and he has not been convicted in any of the cases so far. Taking into consideration of the facts and submissions made by the learned Counsels and 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.25,000/- (Rupees Twenty Five Thousand Only), with two blood relative sureties each for a like sum to the satisfaction of the learned Judicial Magistrate-II, Walajapet, Vellore District, 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 Committal Court Viz., The Judicial Magistrate-II, Walajapet, Vellore, on all working days at 10.30 a.m. and after committal, before the concerned Sessions Court on all hearing dates until further orders. The petitioner shall also report before the respondent police every Saturday and Sunday at 5.30 p.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.

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

-sd/-

26/04/2021

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,WALLAJAPET, VELLORE DISTRICT

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

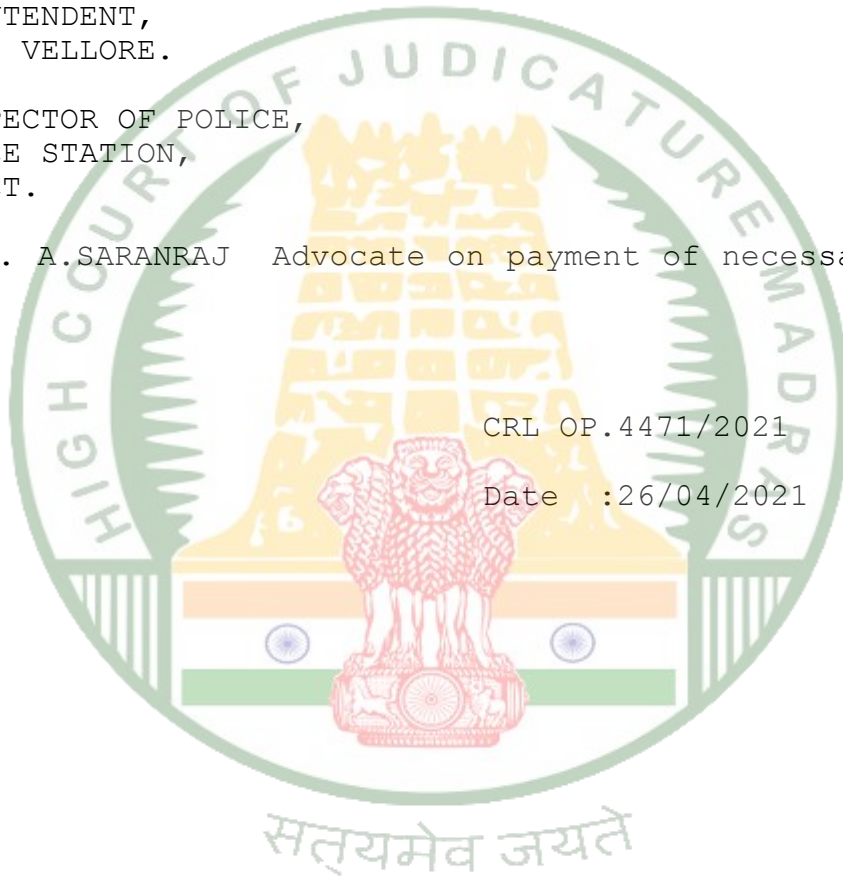
5 THE SUB INSPECTOR OF POLICE,
WALAJAPET POLICE STATION,
VELLORE DISTRICT.

CC to M/S. A.SARANRAJ Advocate on payment of necessary charges
Sr.5328

CRL OP.4471/2021

Date :26/04/2021

RVR 26/04/2021



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