

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.2517 of 2021

Imran Basha

... Petitioner

Vs.

State by

The Inspector of Police,
J-3 Guindy Police Station,
Chennai

(Crime No.921 of 2013)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in S.C.No.141 of 2014 on the file of the Hon'ble II Additional Sessions Judge at Chennai in Crime No.921 of 2013 on the file of the Respondent police.

For Petitioner : Mr.M.I. Javid Akbar

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 23.11.2020 for the execution of non-bailable warrant issued by the learned II Addl. Sessions Judge, City Civil Court, Chennai in S.C.No.141 of 2014 for the offences punishable under Section 302 r/w 201 I.P.C. in Crime No.921 of 2013 on the file of respondent police, seeks bail.

2. Earlier, the petitioner was arrested and he was granted bail, but he has failed to appear on 16.10.2019. Hence, the non-bailable warrant was issued. Subsequently, for the execution of non-bailable warrant, he was arrested and now, he has filed this petition seeking for bail.

3. The learned counsel appearing for the petitioner submitted that as the Covid-19, pandemic intervened, he was not able to know when the courts have resumed normal functioning, hence, the petitioner did not appear before the Court on 16.12.2019 and thereby, the trial Court has issued NBW. Accordingly, he was arrested on 23.11.2020 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 totally, there are two accused and the petitioner is arrayed as A2. She would submit that the case is of the year 2013 and since some of the accused did not appear before the Trial Court, the trial is being delayed. She would also submit that now the trial is also commenced and three witnesses have been examined. 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 2013, the petitioner is regularly appearing before the trial Court, he has failed to appear in one hearing i.e. on 16.10.2019, immediately he was arrested and he is in jail from 23.11.2020, this Court is inclined to grant bail to the petitioner.

7. Now, it is stated that the trial is also commenced and three witnesses have been examined. In the said circumstances, the Trial Court is directed to proceed with the trial and dispose the case expeditiously, preferably within a period of three months from the date of receipt of the copy of this order.

(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 IX Metropolitan Magistrate, Saidapet, Chennai 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.

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

-sd/-

12/02/2021

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 METROPOLITAN MAGISTRATE,
NO.IX, SAIDAPET, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE II ADDITIONAL SESSIONS JUDGE
AT CHENNAI

4 THE SUPERINTENDENT,
CENTRAL PRISON,
PUZHAI, CHENNAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

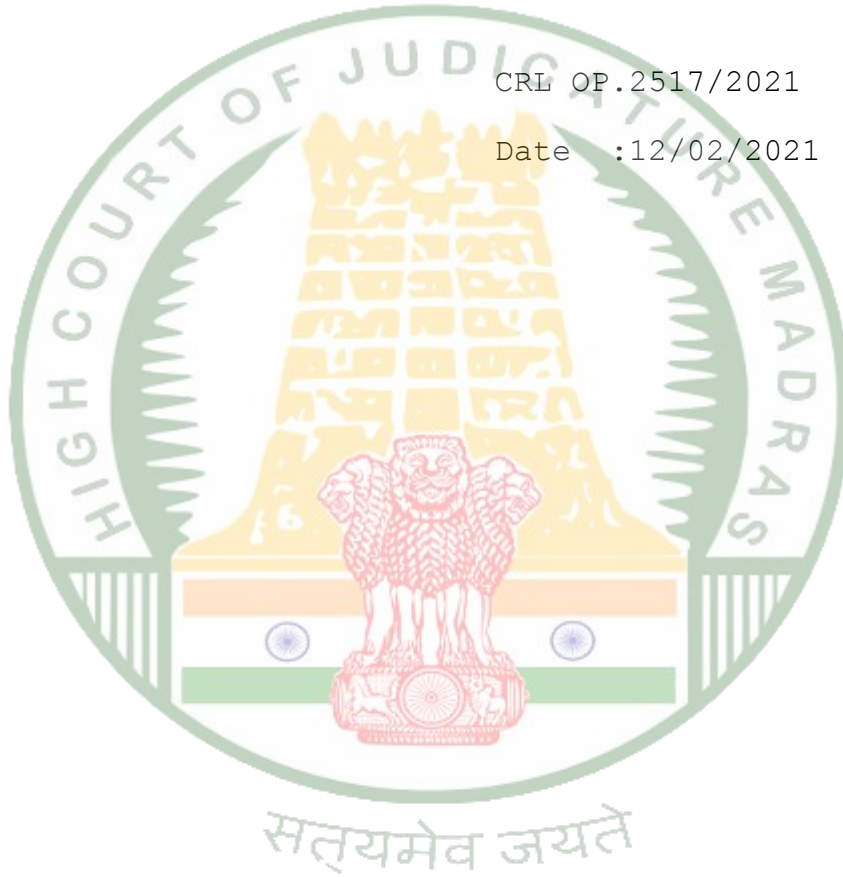
6 THE INSPECTOR OF POLICE,
J-3 GUINDY POLICE STATION,
CHENNAI.

+2 CC to M/S.M.I.JAVID AKBAR Advocate on payment of necessary
charges SR.NO.1495

CRL OP.2517/2021

Date :12/02/2021

cs 15/02/2021



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