

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.2891 of 2021

Mani @ Manivasagam @ Manikandan

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
R-9, Valasaravakkam Police Station,
Chennai.
(S.C. No. 120 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in S.C.No.120 of 2020 on the file of the Additional District Judge - III, Thiruvallur at Poonamallee.

For Petitioner : Mr.S.Govindarajan

For Respondent : Mrs.M. Prabhavathi,
APP

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 11.12.2020 for the offence punishable under Sections 302 and 380 of IPC, seeks bail.

2. Totally there are three accused and the petitioner is arrayed as A1. The occurrence has taken place in the year 1999. and absconding charge sheet in respect of this petitioner/A1 has been filed before the Judicial magistrate I, Poonamallee and thereafter NBW was issued in the year 2001. Pursuant to which, he was arrested on 11.11.2020. Now, the matter is pending in SC No.120 of 2020 on the file of the Additional District and Sessions Court-III, Poonamallee. Now, he prays to grant bail.

3. The learned counsel for the petitioner would submit that without serving any summons to the petitioner, the learned Committal Judge issued NBW against the petitioner. Since the petitioner has not aware of the case, he has not appeared before the Committal Court. Therefore, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor vehemently opposed stating that the case is pending from the year 1999. After investigation, absconding charge sheet, in respect of the petitioner/A1, has been filed. Since the petitioner was absconding for more than 11 years, the committal Judge issued NBW against the petitioner in the year 2001 and after much difficulty, he was arrested on 11.11.2020. Now, the matter was committed and the same is pending in S.C.No.120 of 2020 before the Additional District Judge-III Poonamallee for trial. If the petitioner is released on bail, he may once again abscond and derail the proceedings. She would also submit that during the absconding period the petitioner has not committed any offence and there is no previous case pending as against the petitioner.

5. Considering the facts and circumstances of the case, and the fact that there is no previous case pending as against the petitioner and during the absconding period, the petitioner has not committed any offence 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 **Additional District Judge-III, Thiruvallur at 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 shall appear before the trial Court daily at 10.30 a.m., on all working days at 10.30a.m., without fail; if the petitioner fails to appear before the Court, the bail granted to the petitioner shall stand cancelled without any further reference to this Court;

(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. Considering the fact that the matter is pending from the year 2001 and now, it is ripen for trial, the Trial Court is directed to proceed with the trial on day to day basis and complete the same as expeditiously as possible, preferably, within a period of 3 months from the date of receipt of a copy of this order and the petitioner is also directed to co-operate with the trial.

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

-sd/-
10/03/2021

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.

TO

1 THE ADDITIONAL DISTRICT JUDGE NO.III,
THIRUVALLUR AT POONAMALLEE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI

4 THE INSPECTOR OF POLICE,
R-9 VALASARAVAKKAM POLICE STATION
CHENNAI.

+1 CC to M/S.A.SELVENDRAN Advocate on payment of necessary charges SR.NO.3079

CRL OP.2891/2021

Date :10/03/2021

TA-11/03/2021