

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.3014 of 2021

1. K. Sathiyamoorthy

2. M. Karthikeyan

... Petitioners

Vs.

State Rep. by

The Inspector of Police,

Edapaddi Police Station,

Salem District.

(Crime No.36 of 2019)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail pending investigation in Crime No.36 of 2019 on the file of the respondent police.

For Petitioners : Mr. Saran Kumar

For Respondent : Mrs. M. Prabhavathi,
APP

ORDER

(The case has been heard through video conference)

The Petitioners, who were arrested and remanded to judicial custody on 09.12.2020 for the offence punishable under Section 294(b), 302, 352 and 34 of IPC in Crime No.36 of 2019, seek bail.

2. It is a case of jumped bail. The petitioners are arrayed as A1 and A2 in S.C No.203 of 2019, which is pending for trial, on the file of the III Additional Sessions Court, Salem. Earlier, the petitioners were arrested and released on bail. Subsequently, they have failed to appear before the Court, on 26.11.2020, the learned trial Judge had issued Non Bailable Warrant against the petitioners, pursuant to which, the petitioners were arrested and remanded to judicial custody on 09.12.2020. Hence, he prays to grant bail.

3. The learned counsel for the petitioner would submit that the petitioners were regularly appearing before the Court. Due to illness, the petitioners were unable to appear before the trial Court. Therefore, he prays to grant bail to the petitioners.

4. The learned Additional Public Prosecutor vehemently opposed stating that the case is pending for trial from the year 2019. Since the petitioners did not appear before the trial Court on 26.11.2020, the trial Judge issued NBW against the petitioners. She would further submit that there was lot of complaints as against the petitioners. The defacto complainant in this case has also lodged a complaint against the petitioners stating that the petitioners are intimidating the defacto complainant and other witnesses. If the petitioners are released on bail, they may tamper the witnesses.

5. Today, both the petitioners have filed undertaking Affidavits stating that they will not tamper the witnesses and they will co-operate with the trial.

6. Considering the undertaking affidavit filed by the petitioners, and also considering the period of incarceration suffered by the petitioners, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned III Additional 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 petitioners, on release from the prison, shall report before the trial Court, on all hearing dates without fail;

(d) the petitioners shall not commit any offences of similar nature;

(e) the petitioners shall not abscond either during investigation or trial;

(f) the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-
15/03/2021

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 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
EDAPADDI POLICE STATION,
SALEM DISTRICT.

+1 CC to M/S.SARAN KUMAR Advocate on payment of necessary charges
SR.No.3347

CRL OP.3014/2021

Date :15/03/2021

cs 16/03/2021