

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.3711 of 2021

Musthafa @ Mohamed Jeekath Musthafa

... Petitioner

Vs.

State Rep. By
The Inspector of Police,
Tiruchengode Town Police Station,
Namakkal District.
Crime No.679 of 2012

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in S.C.No.54 of 2019 on the file of the Principal District and Sessions Judge, Namakkal.

For Petitioner : Mr.S.Sengkodi

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 23.02.2019 for the offence punishable under Sections 147, 148, 120(B) & 302 of IPC in Crime No.679 of 2012, seeks bail.

2. It is a case of jumped bail. Totally there are two accused. The petitioner is facing trial in S.C.No.54 of 2019 on the file of the Principal District and Sessions Court, Namakkal. Earlier, the petitioner was granted bail and subsequently, he did not appear before the trial Court and hence, on 10.03.2017, the learned Judge had issued Non Bailable Warrant against the petitioner, pursuant to which, the petitioner was arrested and remanded to judicial custody on 23.02.2019. Now, he prays to grant bail.

3. The learned counsel for the petitioner would submit that the petitioner was unable to appear before the trial Court due to illness. Therefore, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor vehemently opposed stating that the petitioner is a habitual offender and he is having 5 previous cases and the case is pending for trial from the year 2019. Since the petitioner did not appear before the trial Court, the committal Judge issued NBW against the petitioner on 10.03.2017. If the petitioner is released on bail, he may once again abscond.

5. Considering the facts and circumstances of the case, 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 Principal District and Sessions Judge, Namakkal 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 on all working days at 10.30a.m., until further orders;

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

-sd/-
25/02/2021

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 PRINCIPAL DISTRICT AND SESSIONS JUDGE,
NAMAKKAL.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
TIRUCHENGODE TOWN POLICE STATION,
NAMAKKAL DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

CC to M/S.S.SENGKODI Advocate on payment of necessary charges

CRL OP.3711/2021

Date :25/02/2021

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MN-26/02/2021