

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.5237 of 2021

Kala @ Janaki @ Banumathi

... Petitioner

Vs.

State rep. by
The Deputy Superintendent of Police,
'Q' Branch, CID, Dharmapuri,
Dharmapuri Dt.
(Crime No.1 of 2017)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Cr.No.1 of 2017 on the file of the respondent Police.

For Petitioner : Mr.R.Sankarasubbu

For Respondent : Mrs.M. Prabhavathi,
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

Totally, there are five accused and the petitioner is arrayed as A4. The petitioner, who was arrested and remanded to judicial custody on 10.04.2017 for the offence punishable under Sections 13(i)(b) 18, 19, 20, 38 of Unlawful Activities Prevention Act, 1967 and under Section 120(b) of I.P.C., in Crime No.1 of 2017, seeks bail.

2. The case of the prosecution is that A1 in this case by name Srinivasan was found in possession of some banned booklets, pamphlets relating to banned Communist Party of India (maoist) and he was arrested on 01.07.2017 and the police has also seized some CD and mobile phone from A1. Thereafter, based on the confession of A1, all the other accused were implicated and on 10.04.2017, the petitioner was arrested on a PT warrant. Now, seeking bail, the present petition has been filed.

3. The learned counsel appearing for petitioner would submit that the main allegation is only against A1 that he was found in possession of booklets and other materials relating to moist organisation. Only on his confession, the petitioner was arrested and now, the petitioner is in jail for nearly four years. He would submit that the other accused A1, A3 and A4 were already granted bail by this Court.

Hence, he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would strongly oppose this petition on the ground that the petitioner is belonging to banned moist organisation. She would submit that already four other cases are pending against the petitioner. In this case, she was found in possession of materials supporting a banned organisation. On instructions, she would submit that the other accused were released on bail. Hence, she opposed to grant bail to the petitioner.

5. Taking into consideration of the fact that the main allegation is only against A1 and this petitioner was implicated on the confession of A1, the investigation is almost completed, now the matter is pending for trial. That apart, all the other arrested accused are released on bail. Considering the facts and circumstances and on considering the period of incarceration suffered by the petitioner for nearly four years, 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 local two sureties each for a like sum to the satisfaction of the learned Principal Sessions Judge, Dharmapuri, 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, after his release from prison, shall appear before the trial court viz., Principal Sessions Judge, Dharmapuri daily at 10.30 a.m. on all working days without fail 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/-
24/03/2021

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 PRINCIPAL SESSIONS JUDGE,
DHARMAPURI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE DEPUTY SUPERINTENDENT OF POLICE,
Q BRANCH CID, DHARMAPURI,
DHARMAPURI DISTRICT.

4 THE SUPERINTENDENT,
SPECIAL PRISON FOR WOMEN,
TIRUCHIRAPPALLI.

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

CRL OP.5237/2021

Date :24/03/2021

MN-25/03/2021