

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.5879 of 2021

Ganesan

... Petitioner

Vs.

The State rep.by  
Inspector of Police,  
Selaiyur Police Station,  
Selaiyur, Chennai.  
(Crime No.762 of 2008).

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in the PRC.No.48/2009 pending on the file of the Judicial Magistrate Court No.I, Tambaram (Cr.No.762 of 2008).

For Petitioner : Mr.S.Sathyaraj

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 21.09.2020 for the offence punishable under Sections 459 and 307 of IPC in Crime No.762 of 2008, seeks bail.

2. It is a case of jumped bail. Totally there are two accused and the petitioner is arrayed as A1. Earlier, the petitioner was granted bail. Subsequently, he failed to appear before the Committal Court and hence, NBW was issued on 26.09.2013, pursuant to which, he was arrested and remanded to judicial custody on 21.09.2020. Now, seeking bail the present application has been filed.

3. The learned counsel for the petitioner would submit that the petitioner is a native of Tirunelveli District. Earlier, he was granted bail and he was regularly complying with the condition. Thereafter, no summon was issued to the petitioner. Subsequently, due to family circumstances, he gone to his native place. In the meantime, NBW was issued against him for his non appearance and he was arrested on 21.09.2020 and he is in jail for more than 120 days. Therefore, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor vehemently opposed stating that since A2 died, the matter is pending only as against this petitioner/A1 and now, the matter is pending for trial. The petitioner was absconding for the past 7 years and after much difficulties, he was

arrested. If he is released on bail, he will abscond once again.

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 Judicial Magistrate No.I, Tambaram 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 release from the prison, shall report before the trial Court, on all working days at 10.30 a.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/-  
25/03/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

TO

1 THE JUDICIAL MAGISTRATE NO.I,  
TAMBARAM.

2 THE CHIEF JUDICIAL MAGISTRATE  
CHENGALPET [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,  
SELAIYUR POLICE STATION,  
SELAIYUR, CHENNAI.

5 THE SUPERINTENDENT,  
CENTRAL PRISON, PUZHAL.

+1 CC to M/S.S.SATHYARAJ Advocate on payment of necessary charges  
SR NO.4053

CRL OP.5879/2021

Date :25/03/2021

MN-26/03/2021

सत्यमेव जयते

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