

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.5808 of 2021

K.Raja

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Attur Police Station,
Salem Dt.
(Crime No.637 of 2016)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Cr.No.637 of 2016 on the file of the respondent Police.

For Petitioner : Mr.W.Camyles Gandhi

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

O R D E R

(The case has been heard through video conference)

The petitioner is a sole accused. The petitioner, who was arrested and remanded to judicial custody on 17.02.2021 for the offence punishable under Sections 376 and 323 of I.P.C., in Crime No.637 of 2016, seeks bail.

2. Earlier, the petitioner was granted bail and subsequently, he has failed to appear before the trial court. Hence, a non-bailable warrant was issued on 17.06.2019 and on the execution of the same, he was arrested on 17.02.2021. Now, he has filed this petition seeking for bail.

3. The learned counsel appearing for the petitioner submitted that the occurrence taken place in the year 2016 and he has been regularly appearing before the trial court, only one hearing, due to some illness, he could not appear before the Trial Court. Hence, a non-bailable warrant has been issued and now, he was arrested and he is in jail for more than 38 days. He would submit that he would abide by any condition imposed by this court and in order to defend his case, the petitioner may be released on bail. Hence, he prays for grant of bail.

4. The learned Additional Public Prosecutor appearing for the respondent opposed this petition on the ground that the petitioner is a sole accused in the present case for the offence under Section 376 and 323 of I.P.C. She would submit that he has deliberately failed to appear before the trial court and he is absconding for more than one year. Hence, a non-bailable warrant was issued. She would submit that if the petitioner released on bail, he will tamper with the witnesses and opposed to grant bail to the petitioner.

5. I have heard and considered the rival submissions made by the learned counsel appearing for petitioner as well as learned Additional Public Prosecutor and perused the records.

6. Taking into consideration of the facts and circumstances, and also considering the period of incarceration suffered by the petitioner for nearly 38 days, this Court is inclined to grant bail to the petitioner subject to the following stringent 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 Sessions Judge, Mahila Court, 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 petitioner, on his release from prison, shall report before the trial court viz., Sessions Judge, Mahila Court, Salem 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.

7. 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 SESSIONS JUDGE,
MAHILA COURT, SALEM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ATTUR POLICE STATION,
SALEM DISTRICT.

+1CC to M/S. W.CAMYLES GANDHI Advocate on payment of
necessary charges SR NO.3939

CRL OP.5808/2021

Date :24/03/2021

MK:25/03/2021