

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.6221 of 2021

Mohan

... Petitioner

Vs.

State Rep by its  
The Inspector of Police,  
Mathur Police Station,  
Krishnagiri District.  
Cr.No.123/1988

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail as against the Non-Bailable Warrant dated 05.10.2020 issued in PRC.No.3 of 2000 on the file of the District Munsif cum Judicial Magistrate, Pochampalli in Crime No.123/1988 on the file of the respondent police.

For Petitioner : M/s.Dass and Viswa Associates

For Respondent : Mrs.M. Prabhavathi,  
APP

O R D E R

(The case has been heard through video conference)

This is the second bail application. The petitioner, who was arrested and remanded to judicial custody on 05.10.2020 for the offence punishable under Section 397 of IPC, in PRC.No.3 of 2020 on the file of the District Munsif cum Judicial Magistrate, Poochampalli in Crime No.123 of 1988, seeks bail.

2. It is a case of jumped bail. The petitioner is the main accused in PRC No.3 of 2000 on the file of the learned District Munsif cum Judicial Magistrate, Poochampalli. The occurrence had taken place in the year 1988 and earlier, since the petitioner failed to appear before the committal Court, NBW has been issued against him on two occasions and thereafter it was recalled. Once again the

petitioner failed to appear before the Court on 05.10.2020, and thereby, the learned committal Judge had issued a Non Bailable Warrant (NBW) of arrest against him, pursuant to which, the petitioner was arrested on 05.10.2020.

3. The learned counsel for the petitioner would submit that earlier, the bail petition was dismissed on the ground that the matter was pending at the stage of committal. Now the matter has been committed to Sub Court, Uthangarai and numbered as S.C.No.12 of 2021.

4. The learned Additional Public Prosecutor appearing for the respondent would vehemently oppose stating that earlier on two occasions NBW was issued against the petitioner and it was recalled. Thereafter, since the petitioner did not appear before the Court on 05.10.2020, the learned Committal Judge was pleased to issue Non Bailable Warrant of arrest against him, pursuant to which, the petitioner was arrested on 05.10.2020 with great difficulty. She would submit that the case against the other accused persons was split up and after trial, all of them were acquitted. The respondent police, after great difficulty, were able to secure the petitioner and at this stage, if the petitioner is let out on bail, there are every chances of him getting absconded again and thereby, derailing the progress of trial. She would further submit that now, the matter has been committed to Sub Court, Uthangarai and numbered as S.C.No.12 of 2021.

5. I have considered the submissions made on either side and perused the materials available on records carefully.

6. Earlier, the bail petition filed by the petitioner was dismissed by the order of this Court on 25.02.2021 on the ground that the occurrence has taken place in the year 1988 and some of the accused are absconding and the matter is yet to be committed. Now, the matter has been committed and taken cognizance in S.C.No.12 of 2021 on the file of the Sub Court, Uthangarai. It is also stated that in respect of other accused, trial has been over and they were acquitted.

7. Considering the facts and circumstances, and also taking note of the change of circumstances that now, the matter has been committed to Sub Court , Uthangarai and taken cognizance as S.C.No.12 of 2021 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 Sub Court, Uthangarai, 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.

8. With the above directions, this Criminal Original Petition is ordered. Considering the fact that the matter is pending from the year 1988, the trial Court is directed to proceed with the trial on day to day basis and dispose the same on or before 30.06.2021.

-sd/-  
30/03/2021

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 DISTRICT MUNSIF CUM  
JUDICIAL MAGISTRATE, POCHAMPALLI.

2 THE SUB COURT,  
UTHANGARAI.

3 THE SUPERINTENDENT,  
CENTRAL PRISON, SALEM.

4 THE INSPECTOR OF POLICE,  
MATHUR POLICE STATION,  
KRISHNAGIRI DISTRICT.

5 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

+1 CC to M/S.DASS AND VISWA ASSOCIATES Advocate on payment of  
necessary charges SR.No.4253

CRL OP.6221/2021

Date :30/03/2021

cs 31/03/2021