

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.07.2021

CORAM :

THE HON'BLE Mr.JUSTICE R.SUBRAMANIAN

Crl.O.P.No.10126 of 2021

K.V.Sayan

... Petitioner

Vs.

The State rep. By
The Inspector of Police,
Sholurmattam Police Station,
Kotagiri, The Nilgiris.
(Crime No.158 of 2017)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in S.C.No.2 of 2018 pending on the file of the learned Sessions Judge, The Nilgiris, Udthagamandalam in Crime No.158 of 2017 on the file of the respondent police.

For Petitioner : Mr.Sunder Mohan

For Respondent : Mr.J.C.Durairaj
Additional Public Prosecutor

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ORDER

This bail application is filed by the first accused in S.C.No.2 of 2018 on the file of the Principal Sessions Judge, the Nilgiris at Udthagamandalam.

2.Though the petitioner was initially released on bail, his bail was cancelled, since he did not appear for the hearings and gave an interview, the contents of which was, likely to affect the progress of the trial. Upon cancellation of bail, the petitioner was re-arrested.

3.The challenge to the order of cancellation was rejected by this Court in Crl.O.P.No.4533 of 2019 on 06.03.2019. The petitioner along with second accused again moved this Court seeking bail in Crl.O.P.Nos.8488 & 8495 of 2020. The said criminal original petitions were dismissed by me on 28.08.2020 on the ground that the trial was in advanced stage and there was no change in the circumstances that existed on the date when the criminal original petition filed against the order cancelling the bail came to be dismissed by this Court. Aggrieved by the dismissal of the bail petitions, the petitioner moved the Hon'ble Supreme Court in SLP.No.5539 of 2020. While dismissing the special leave petition, the Hon'ble Supreme Court gave liberty to the petitioner to renew the request for bail after completion of the prosecution evidence. It is now claimed by the petitioner and conceded by the prosecution that the examination of the prosecution witnesses is complete and

what remains is only the examination of the defence witness.

4.Mr.Sunder Mohan, learned counsel appearing for the petitioner would submit that four defence witnesses are to be examined and the defence witnesses could not be examined because of the lock down imposed. The petitioner, who was re-arrested on 01.03.2019 has been incarcerated for nearly 2 years and 5 months. Now that the evidence of the prosecution is over, I do not find any necessity for continuing the incarceration of the petitioner any further.

5.Considering the fact that the petitioner is from the neighboring state of Kerela, I am of the opinion that the petitioner could be enlarged on bail on strict terms. Therefore, this bail petition is allowed, the petitioner is enlarged on bail on the following conditions:

(a) the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, The Nilgiris. The sureties must be solvent persons, residents of either the Nilgiris or Coimbatore District and on further conditions that:

(b) the petitioner shall stay in Ooty till the completion of the case.

(c) the sureties shall affix their photographs and Left Thumb

Impression in the surety bond and the learned Sessions Judge may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d) the petitioner shall co-operate with the trial and report before the Trial Court on every Monday at 10.30 am apart from regular hearings.

(e) the petitioner shall not commit any offences of similar nature;

(f) the petitioner shall not abscond during trial;

(g) On breach of any of the aforesaid conditions, the learned Sessions Judge/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 Sessions Judge/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, bail is granted and this Criminal Original Petition is allowed.

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Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

To:

- 1.The Inspector of Police,
Sholurmattam Police Station,
Kotagiri, The Nilgiris.
- 2.The learned Sessions Judge,
The Nilgiris, Udthagamandalam.
- 3.The Jailor,
Sub-jail,
Conoor.
- 4.The Public Prosecutor,
High Court of Madras,
Chennai.



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R.SUBRAMANIAN, J.

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