

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.05.2021

CORAM :

THE HON'BLE Mr.JUSTICE G.R.SWAMINATHAN

Crl.O.P.No.8747 of 2021

Siva

... Petitioner

Vs.

State Inspector of Police,
Kitchipalayam Police Station,
Salem.
(Crime No.45 of 2015)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in the above pending trial in S.C.No.180 of 2017 on the file of the III Additional District Judge, Salem in Cr.No.45 of 2015 on the file of the respondent Police.

For Petitioner : Mr.S.Senthilvel

For Respondent : Mr.L.Charles Premkumar
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

Heard the learned counsel on either side.

2. The petitioner is figuring as A8 in S.C.No.180 of 2017 on the file of the III Additional District and Sessions Judge for FTC-III, Salem for the offence under Sections 148, 449, 341, 324 r/w 149, 307, 302 r/w 149 & 506 (ii) of IPC and Section 3(10) TNPPDL Act.

3. When the trial commenced, L.Ws.1 to 5 were present. On that day, the petitioner conveniently absented himself along with his counsel. Therefore, the Non Bailable Warrant was issued and it came to be executed only on 20.12.2020. The petitioner is seeking bail.

4. The conduct of the petitioner cannot be condoned. His intention appears to be so obvious and he wants to drag on the proceedings. However, the learned counsel for the petitioner gives an undertaking, on instructions, from the petitioner that henceforth, the petitioner will not in anyway contribute to delay of

the proceedings. In other words, he will be present either in person or through counsel on all future hearing dates.

5. Subject to the undertaking given by the counsel for the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) If the undertaking given by the counsel for the petitioner, on instructions from the petitioner, is violated, the benefit of the order will stand recalled automatically and it will be open to the Courts below to issue Non Bailable Warrant against the petitioner. The petitioner may have to forget getting bail thereafter.

(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 Additional District Sessions Judge for FTC-III, 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 shall not commit any offences of similar nature;

(d) the petitioner shall not abscond either during investigation or trial;

(e) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(f) 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]**;

(i) 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/-

06/05/2021

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 ADDITIONAL DISTRICT
SESSIONS JUDGE FOR FTC-II, SALEM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
KITCHIPALAYAM POLICE STATION,
SALEM.

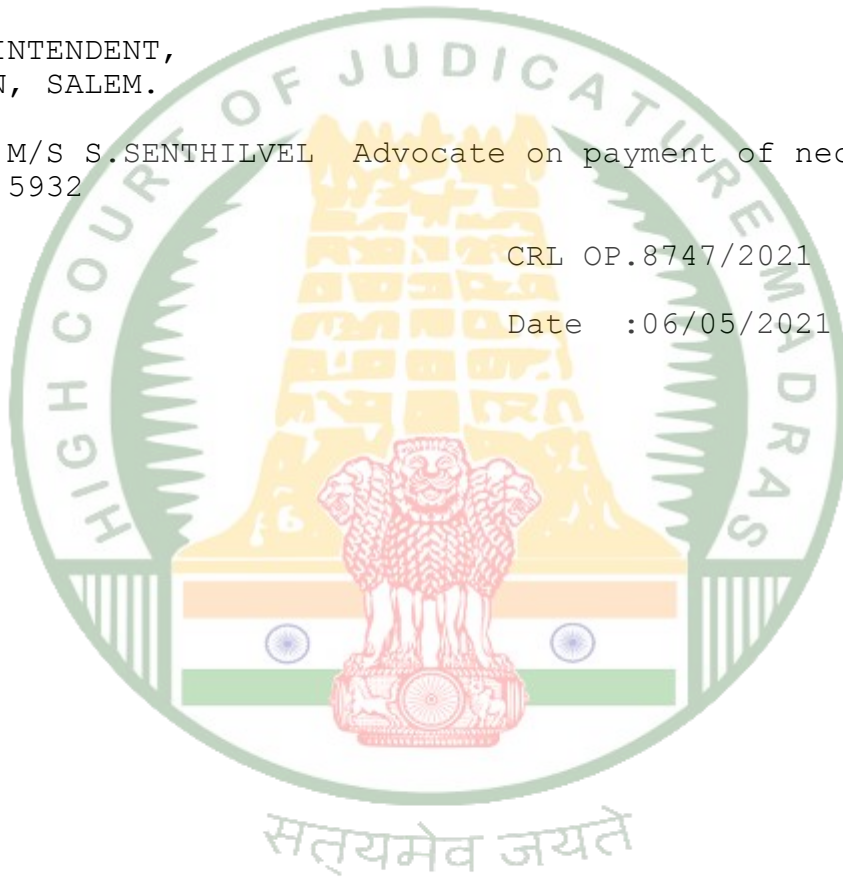
4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

+1 CC to M/S S.SENTHILVEL Advocate on payment of necessary
charges SR.NO.5932

CRL OP.8747/2021

Date :06/05/2021

TA-07/05/2021



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