

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2021

CORAM

THE HON'BLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Crl. O.P. No. 10200 of 2021

Saravanan

... Petitioner/Accused No. 1

-vs-

State Rep. by its

The Sub-Inspector of Police,
Kolathur Police Station,
Salem District.

... Respondent/Complainant

(Crime No. 332 of 2012)

Prayer:- Criminal Original Petition filed under Section 439 of the Code of Criminal Procedure, 1973, praying to enlarge the Petitioner on bail in C.C. No. 87 of 2014 on the file of J.M. No.1, Mettur.

For Petitioner : Mr. M.Subash

For Respondent : Mr. J.C.Durairaj,
Counsel appearing for the Government

ORDER

(The case has been heard through video conference)

The Petitioner, who was arrested and remanded to judicial custody on 27.07.2019 for the offences punishable under Sections 25(1)B(a) 25(1) (a) of the Indian Arms Act, in Crime No. 332 of 2012 pending investigation on the file of the Respondent Police, seeks bail.

2. The case of the prosecution is that the Petitioner was already arrested and released on bail in the year 2012. Further, the Respondent/Police filed the charge sheet against the Petitioner before the Learned Judicial Magistrate Court No. 1, Mettur and the same was taken on the file in C.C. No. 87 of 2014. Thereafter, the Petitioner did not appear before the Trial Court and the Non Bailable Warrant was issued against the Petitioner on 09.05.2019 and the same was executed on 09.07.2019. Hence, the case.

3. The Learned Counsel for the Petitioner would submit that this is the second application for bail. He would further submit that the earlier application for bail in Crl. O.P. No. 15087 of 2020 was dismissed by this Court on 07.10.2020. He would further submit that the Petitioner is an

innocent person and he has been falsely implicated in this case. He would further submit that the CC was taken on file during the year 2014 and he was regularly appearing before the Trial Court from the year 2014. He would further submit that apart from the cases registered by the Tamil Nadu Government, the Petitioner was also implicated in the cases registered by the Karnataka Government. He would further submit that the Petitioner was arrested by the Karnataka Police and since he was in Karnataka Jail, he was unable to appear before the Trial Court on 09.05.2019 and thereby, the Trial Court had issued the Non Bailable Warrant of arrest against him. He would further submit that thereafter, he was released on bail by the Karnataka Court. Meanwhile, while he was taking steps to surrender and recall the Non Bailable Warrant of arrest, he was arrested at his residence and remanded to judicial custody. He would further submit that it was not the intention of the Petitioner to abscond or evade the due process of law. He would further submit that though the Respondent/Police states that there are previous cases against the Petitioner, he has been acquitted in many of the cases and only few cases are pending trial. He would further submit that as on date, the Petitioner is in custody for more than two years and thereby, he has spent more than two years as an under trial prisoner. He would further submit that the Petitioner is prepared to abide by any stringent conditions that may be imposed by this Court. He would further submit that the Petitioner is also prepared to arrange two Government servants who would stand as sureties to him. Hence, he prays for grant of bail to the Petitioner.

4. The Respondent/Police has filed counter. In the counter, it has been stated that the Petitioner is following the foot steps of the Late Forest Brigand Veerappan and posing himself as "Kutti Veerappan" in the forest areas and he is habituated to possessing illegal weapons and hunting wild animals. It is further stated that he is also involved in the following cases registered by the Police and the Forest Officials in Tamil Nadu as well as Karnataka, which are detailed below:-

S.No.	Station	Crime Nos.	Section	Stage of the case
1	Erode District, Vellithiruppur PS	256/2002	302 of IPC r/w 25(1-B) (a) of IA Act	Acquittal
2	Salem District, Kolathur PS	59/2004	457 and 380 of IPC	Acquittal
3	Salem District, Kolathur PS	141/2014	457 and 380 of IPC	Convicted
4	Karnataka State, M.M. Hills PS	71/2012	307 and 341 of IPC	ACQ

S.No.	Station	Crime Nos.	Section	Stage of the case
5	Salem District, Mettur Forest	WLOR No. 01/2010	9, 27, 31 r/w 51 of Wild Life Protection Act, 1972	PT
6	Karnataka State, Palar Range Forest	FOC No. 26/2001	9 and 25 of Wild Life Protection Act, 1972 r/w 429 and 379 of IPC	ACQ
7	Karnataka State, Palar Range Forest	FOC No. 01/2013	2(1), (16), (20), 09, 39, 50(c) r/w 51 of Wild Life Protection Act, 1972	PT
8	Karnataka State, Palar Range Forest	FOC No. 01/2014	2, (16), 9, 27, 31, 32, 50 r/w 51 of Wild Life Protection Act, 1972	PT
9	Karnataka State, Palar Range Forest	FOC No. 03/2014	2, (16), (31), (35) and 9, 27, 31, 32, 39, 44, 48a, 49b r/w 51, 51a, 52, 58f of Wild Life Protection Act, 1972	PT
10	Karnataka State, Palar Range Forest	FOC No. 02/2016	9, 27, 31 r/w 51 of Wild Life Protection Act, 1972	ACQ
11	Tamil Nadu, Bargur Forest	WLOR No. 01/2019	9, 39(1)(b), 50, 51 of Wild Life Protection Act and 25(1)(A) of Indian Arms Act, 1959	Detained under TPDA Act by the District Collector Erode, vide C.No.21/Forest Offender, 2019/C1 dt:26.08.2019.

The Learned Counsel appearing for the Government would submit that history sheet has also been opened in the year 2006 vide HS No. 350 of 2006 against him and his activities are kept under close watch and that whenever he comes out on bail, he is in the habit of indulging in hunting. Hence, he vehemently opposed for the grant of bail to the Petitioner.

5. In reply, Learned Counsel for the Petitioner would submit that apart from suffering conviction in the case in Crime No. 141 of 2014

registered by the Kolathur Police for the offences punishable under Sections 457 and 380 of the Indian Penal Code, 1860, the Petitioner has not been convicted in any other case. He would further submit that taking into consideration the period of incarceration of the Petitioner as an under trial prisoner and the pandemic situation, he may be granted bail. He would reiterate that the Petitioner is prepared to abide by any stringent conditions that may be imposed by this Court and he is also prepared to furnish substantial sureties.

6. Heard the Learned Counsels and perused the earlier dismissal order dated 07.10.2020.

7. Taking into consideration the facts and submissions and also the fact that the Petitioner is languishing in prison for about two years and that he has also offered to furnish two sureties from Government servants, 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. 25,000/- (Rupees Twenty Five Thousand only) with two sureties (who are Government servants), each for a like sum to the satisfaction of the Learned Judicial Magistrate Court No. 1, Mettur 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 Aadhaar Card or Bank Pass Book to ensure their identity;

(c) the Petitioner on his release from prison shall report before the Judicial Magistrate Court No. 1, Mettur on all working days at 10.30 a.m. and to report before the Respondent Police every Sunday 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 during trial;

(f) the Petitioner shall not tamper with evidence or witness during 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 229-A of the Indian Penal Code, 1860.

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-
05/07/2021

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 JUDICIAL MAGISTRATE COURT
NO.I, METTUR.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION].

3 THE SUB-INSPECTOR OF POLICE,
KOLATHUR POLICE STATION,
SALEM DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

CC to M/S.M.SUBASH Advocate on payment of necessary charges

WEB COPY
CRL OP.10200/2021
Date :05/07/2021

MN-06/07/2021