

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.06.2021

CORAM :

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.10306 of 2021

Thirugnanam

.. Petitioner/Accused No.2

/versus/

The Inspector of Police,
Meensurthy Police Station,
Ariyalur District,
(Crime No.130 of 2008)

..Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with S.C.No.138 of 2013 pending on the file of the learned III Additional District and Sessions Judge, Salem.

For Petitioner : Mr.A.P.Sathyamoorthy

For Respondent : Mr.E.Raj Thilak
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner/A2, who was arrested and remanded to judicial custody on 24.03.2021 for the offence punishable under Sections 147, 148, 120(b), 307, 302, 326, 201 r/w 302 of IPC in Crime No.130 of 2008 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner was arrested and remanded to judicial custody for the offence punishable under Sections 147, 148, 120(b), 307, 302, 326, 201 r/w Section 302 of IPC in Crime No.130 of 2008. Subsequently, he was granted bail by this Court. After completion of investigation, the respondent police laid charge sheet and the same was taken cognizance by the trial Court in S.C.No. 138 of 2013. Pending trial, the petitioner was absent on 06.11.2020. As such, the trial Court issued NBW as against the petitioner on 06.11.2020. Subsequently, the petitioner filed anticipatory bail petition before this Court and the bail was granted by this Court on 30.12.2020 in Crl.O.P.No.21011 of 2020. The petitioner failed to execute the surety within the time stipulated by this Court. Due to non-execution of the anticipatory bail granted by this Court, the respondent police executed NBW and arrested the petitioner and three other accused persons on

24.03.2021.

3.The learned Government Advocate (crl.side) would submit that totally 18 accused involved in this case. This petitioner is arrayed as A2. He continuously absence and entire trial has been stalled. The petitioner was absent before the trial Court. Therefore, the trial Court issued NBW and the same was executed on 24.03.2021. If the petitioner is let out on bail, he shall abscond and the entire trial shall be stalled.

4.It is seen that there are 18 accused involved in this case. The petitioner is arrayed as A2. In the present case, a crime was registered against the petitioner in Cr.No.130 of 2008 for the offence under Sections 147,148, 120 (b), 307, 302, 326, 201 r/w Section 302 of IPC. Thereafter, the petitioner was released on bail. Subsequently, the respondent police filed final report and the same was taken cognizance by the trial Court in S.C.No.138 of 2013. While being so, the petitioner was not appeared before the trial Court and hence, the trial Judge has issued NBW against the petitioner. Subsequently, the petitioner approached this Court for granting anticipatory bail and the same was granted by this Court on 30.12.2020 directing the petitioner to execute surety within a period of fifteen days, failing to execute the surety, the respondent police shall execute NBW against the petitioner. Accordingly, the respondent police secured the petitioner on 24.03.2021 on execution of NBW. Due to Covid-19 pandemic, the petitioner could not execute the surety as directed by this Court.

5.Considering the facts and circumstances of the case and considering the fact that earlier this Court granted anticipatory bail to the petitioner and also considering the fact that the period of incarceration of imprisonment and due to covid-19, the petitioner could not execute the surety, 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 that he shall execute his own bond for a sum of Rs.10,000/- (Rupees ten thousand only) before the Superintendent of the concerned prison;

[b]thereafter, the petitioner shall execute two blood related sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of fifteen days from lifting of lock down and commencement of regular function of the Court below, failing which the bail granted by this Court shall stand dismissed.

[c]the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[d]the petitioner shall report before the trial Court daily at 10.30 a.m in the morning and 05.00 p.m., in the evening from the date of lifting of lockdown and commencement of regular functioning

of the Court below, until further orders. In the meantime, the the petitioner shall report before the respondent police daily at 10.30 a.m., in the morning and 05.00 p.m in the evening.

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] the petitioner shall not abscond either during investigation or trial.

[g] On breach of any of the aforesaid conditions, the learned 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.

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

-sd/-

11/06/2021

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 III ADDITIONAL DISTRICT AND SESSIONS
JUDGE, SALEM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
MEENSURITY POLICE STATION,
ARIYALUR DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

CC to M/S. A.P.SATHYAMOORTHY Advocate on payment of necessary charges

CRL OP.10306/2021

Date :11/06/2021