

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.11123 of 2021

Madhura @ Senthil @ Senthil Kumar @ Raja

... Petitioner

Vs.

The State Represent by
The Inspector of Police,
Mohanur Police Station,
Namakkal District.
Crime No.293 of 2013.

... Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail in connection with the case in Cr.No.293 of 2013 pending investigation on the file of the respondent Police.

For Petitioner : Mr.C.Punniakoti

For Respondent : Mr.A.Gopinath
Government Advocate (Crl side)

ORDER

The petitioner, who was arrested on 25.12.2020 and remanded to judicial custody for the offence under Sections 120(b), 449 and 302 of IPC in Cr.No.293 of 2013, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that during the year 2013, the defaco complainant, who is working as a Village Administrative Officer, lodged a complaint stating that two dead bodies were found lying on the back side of Kandamalai hills. Based on the information, the respondent police registered a case against the petitioner and other accused persons.

3. On an earlier occasion, the petitioner was granted bail by the Court below. However, he was not complying with the conditions regularly. Therefore, the trial Court issued a Non-Bailable Warrant against the petitioner during the year 2016 and thereafter, he was arrested on 25.12.2020.

4. The learned counsel for the petitioner submitted that the petitioner, due to ill health, the petitioner could not able to attend the Court. Hence, NBW was issued against him. The petitioner

has been in jail from 25.12.2020. Therefore, he prays to grant bail to the petitioner.

5. The learned Government Advocate (Crl.Side) vehemently opposed the grant of bail by stating that the petitioner and other accused persons had brutally murdered the two persons and initially, the petitioner was released on bail by the Court below and then he jumped on bail. Due to absence of his appearance, the Court below had issued NBW against him and he was arrested only after four years from the date of NBW. If he is released on bail, the trial proceedings will be delayed.

5. Considering the period of incarceration suffered by the petitioner and also the present COVID-19 pandemic situation and further investigation has also been completed, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the Central Prison, Salem in which the petitioner is confined and on such execution the petitioner shall be released from prison;

(b) Within a period of four weeks after the release, the petitioner shall execute a bond for Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate-II, Namakkal;.

(c) In case of any difficulty in executing the said bond along with the sureties before the concerned Magistrate within the time stipulated above, the petitioner is permitted to file appropriate petition within a period of four week therefrom before the concerned Magistrate for extension of time for executing the bond along with sureties and if any such application is filed, the concerned Magistrate shall decide on the grant of extension of time for accepting the bond and sureties in accordance with law. Failing filing of any such application within the time prescribed above, the bail granted by this Court would stand automatically vacated.

(d)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;

(e)the petitioner shall report before the respondent police, daily at 10.30 a.m. until further orders;

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

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

(h) 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]**; and;

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

29/06/2021

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 JUDICIAL MAGISTRATE,
NO.II, NAMAKKAL.

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MOHANUR POLICE STATION,
NAMAKKAL DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

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

CRL OP.11123/2021

Date :29/06/2021

TA-30/06/2021