

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.11775 of 2021

M.Mathivanan

... Petitioner

Vs.

The State Represent by  
The Sub Inspector of Police,  
Erumapatty Police Station,  
Namakkal District.  
Crime No.496 of 2021.

... 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.496 of 2021 pending investigation on the file of the respondent Police.

For Petitioner : Mr.W.Camyles Gandhi

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

**ORDER**

The petitioner, who was arrested on 16.06.2021 and remanded to judicial custody for the offence under Section 447, 294(b), 307 of IPC and Section 25(1B)(a) of Arms Act 1959 in Cr.No.496 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner is a retired Military Officer and now he is working as Security in Bank of Baroda. The petitioner is the husband of the defacto complainant's sister. Due to family dispute, the wife and children of the petitioner went to the house of the defacto complainant. In an inebriated condition, the petitioner went to the house of the defacto complainant with gun and quarrelled with the defacto complainant and his wife and suddenly, the petitioner has tried to kill them with gun. But, at the time, the gun not fired. Based on the complaint lodged by the defacto complainant, the respondent police has registered a case against the petitioner.

3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and he is no way connected with the

alleged offence and due to family dispute, a false case has been filed against the petitioner and the petitioner has been in jail from 16.06.2021. Therefore, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl.Side) vehemently opposed the grant of bail by stating that due to family dispute, the petitioner attempted to murder his wife and the defacto complainant with his gun, but at that time, the gun was not fired.

5. Considering the period of incarceration suffered by the petitioner and also the present COVID-19 pandemic situation, 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, Senthamangalam;.

(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/-  
08/07/2021

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,  
SENTHAMANGALAM.

2 THE CHIEF JUDICIAL MAGISTRATE  
NAMAKKAL [FOR INFORMATION].

3 THE SUB-INSPECTOR OF POLICE,  
ERUMAPATTY POLICE STATION,  
NAMAKKAL DISTRICT.

4 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

5 THE SUPERINTENDENT,  
CENTRAL PRISON, SALEM.

+1 CC to M/S.W.CAMYLES GANDHI Advocate on payment of necessary  
charges SR.NO. 7155

CRL OP.11775/2021

Date :08/07/2021

MN-09/07/2021