

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.02.2021

CORAM :

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

CRL.O.P.No.16559 of 2020

Raj @ Rajasekaran

... Petitioner

Vs.

State Represented through
the Inspector of Police
Nannilam Police Station
(Crime No.416 of 2008)
P.R.C.No.2 of 2018

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner from the judicial custody in the Crime No.416 of 2008 on the file of the Respondent Police and P.R.C.No.2 of 2018 on the file of the learned District Munsif cum Judicial Magistrate at Nannilam.

For Petitioner : Ms.S.Suseela Devi

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 15.07.2020 for the offences punishable under Sections 147, 148, 302, 506(ii), 120(b), 109, 34 IPC, in Crime No.416 of 2008, seeks bail.

2. It is a case of jumped bail. The petitioner who is A14 in this case in Crime No.416 of 2008 was absconding from the year 2013 due to which, Non Bailable Warrant of arrest and Look Out Circular was issued against the petitioner and that the petitioner was arrested on 15.07.2020 at Trichy Airport and is in custody.

3. The learned Counsel for the petitioner would submit that the petitioner is arrayed as A14 in this case in Crime No.416 of 2008. She would submit that the petitioner is innocent and he has been arrayed as A14 in this case. Since he got employed abroad, the petitioner left the country and due to his employment, he was unable to return back to India. In the mean time, the case has been split

up and NBW and Look Out Circular were issued against the petitioner. Now, the petitioner had lost his job on account of Corona Pandemic and he was sent back to India. When he had returned to India, the petitioner was arrested at the Airport on 15.07.2020 and remanded to judicial custody and that the petitioner is in custody for more than 7 months. She would submit that this is the 4th application for bail and that the petitioner has no other case against him. She would further submit that A1 in this case has expired and the trial in S.C.No.22 of 2019 in respect of A8, A11, A13 and A15 had ended in acquittal by Judgment dated 31.01.2012. She would submit that the petitioner is a permanent resident of Thiruvavarur and has strong roots in the society and he is prepared to abide by any stringent condition that may be imposed on him by this court. She would further submit that the petitioner is prepared to surrender his pass port before the trial Court and he is also prepared to give an undertaking before the Court that he will not leave the country till the disposal of the case. She would submit that the co-accused against whom NBW was issued and later arrested, has been granted bail by the trial Court. Hence, she prays for grant of bail.

4. The learned Additional Public Prosecutor would vehemently oppose stated that it is the case of the year 2008. There are totally 15 accused in this case and A1 has died, A2 still absconding and NBW has been issued against him. He would submit that the trial in respect of A8, A11 and A13 ended in acquittal and the case against the other accused who were abscond, has been split up and that there are three Sessions cases pending in respect of Crime No.416 of 2008. He would submit that in respect of A10 and A12, the case is pending in S.C.No.40 of 2018, in respect of A3, A4, A9, the case is pending in S.C.No.22 of 2019 and in respect of A14/the present petitioner, the case has been split up in S.C.No.27 of 2020. He would further submit that the case in respect of A5, A6 and A7 is pending committal in P.R.C.No.2 of 2019 on the file of Judicial Magistrate, Nannilam, and that A5, A6 and A7 have been arrested recently. He would submit that due to the abscondance of the accused, the case had to be split up into different Sessions Cases and thereby, the prosecution as well as the Courts are burdened by conducting different trials for a case in one crime number. He would further submit that due to the sincere efforts taken by the respondent, the absconding accused were secured and that steps are being taken to secure A2 who as per information is living abroad. He would submit that the S.C.No.40 of 2018, S.C.No.22 of 2019 and S.C.No.27 of 2020 are pending on the file of the District Sessions Court, Tiruvavarur, and P.R.C.No.2 of 2019 is pending on the file of the learned Judicial Magistrate, Nannilam. Hence, he would pray that a direction may be issued to the learned District Sessions Judge to club all these cases together and conduct a single trial.

5. Heard the learned Counsels on either side and perused the materials placed on record.

6. Taking into consideration of the facts and submissions made by the learned counsels and considering the period of incarceration suffered by the petitioner from 15.07.2020 and that there is no other case pending against the petitioner, 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 (out of the two sureties, one should be a blood relative) each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Nannilam, 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 at the time of furnishing sureties, shall surrender his Pass Port before the learned District Munsif Cum Judicial Magistrate, Nannilam, along with an undertaking affidavit that he will not leave the country till the completion of trial in S.C.No.27 of 2020.

(d) the petitioner on his release from prison shall report before the District Sessions Judge, Tiruvarur, in S.C.No.27 of 2020 on all working days at 10.30 a.m. until further orders. The petitioner shall also appear before the respondent police every Saturday and Sunday at 10.30 a.m. until further orders.

(e) the petitioner shall not commit any offences of similar nature;

(f) the petitioner shall not abscond during trial;

(g) the petitioner shall not tamper with evidence or witness during trial;

(h) 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.

7. Further, a direction is issued to the learned District Sessions Judge, Tiruvarur, to club the case in S.C.No.40 of 2018, S.C.No.22 of 2019 and S.C.No.27 of 2020, and conduct a single trial.

8. The learned District Munsif cum Judicial Magistrate, Nannilam, is directed to commit the case in P.R.C.No.2 of 2019 within a period of 15 days from the date of receipt of a copy of this order.

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

-sd/-
03/02/2021

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 PRINCIPAL SESSIONS JUDGE,
THIRUVARUR.

2 THE DISTRICT SESSIONS JUDGE
TIRUVARUR.

3 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE AT NANNILAM.

4 THE OFFICER INCHARGE
SUB JAIL, THIRUTHURAIPOONDI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
NANNILAM POLICE STATION.

7 THE SUPERINTENDENT OF POLICE,
TIRUVARUR DISTRICT.

+2 CC to M/S. S.SUSEELA DEVI Advocate on payment of necessary charges SR.No.1059

CRL OP.16559/2020

Date :03/02/2021