

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.17824 of 2020

Elumalai

... Petitioner

Vs.

The State Rep. by

The Inspector of Police,

Maduravoyal Police Station,

(Crime No.88 of 2004)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.88 of 2004 is pending committal in PRC No.28 of 2004 on the file of the Judicial Magistrate II , Poonamallee,

For Petitioner : Mr.V. Suganya,

For Respondent : Mr.M. Prabavathy,
APP

O R D E R

(The case has been heard through video conference)

The petitioner was arrested and remanded to judicial custody on 09.09.2020 for the offence punishable under Sections 452, 324 IPC, and 3 of TNPPDL Act r/w. 34 IPC in PRC No.28 of 2004 , seeks bail.

2. It is a case of jumped bail. The petitioner is the accused in PRC No.28 of 2004 on the file of the Judicial Magistrate No.II, Poonamallee. Since he did not appear before the Committal Court on 26.11.2015, the Committal Judge issued Nonailable Warrant against the petitioner and pursuant to which, the petitioner was arrested and remanded to judicial custody on 09.09.2020. Hence, he prays to grant bail.

3. The learned counsel for the petitioner would submit that the petitioner has been regularly appearing before the Committal and that on 26.11.2015, the petitioner was unable to appear before the Committal Court due to illness. Therefore, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor vehemently opposed stating that the case is pending for committal from the year 2004 and since the petitioner did not appear before the Committal Court on 26.11.2015, the Committal Judge issued NBW against the petitioner and the petitioner is absconding for more than 5 years.

5. Considering the facts and circumstances of the case, and also considering the period of incarceration suffered by 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.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate II, Poonamaallee, 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 shall appear before the Judicial Magistrate-II, Poonamallee, on all the date of hearings, without fail;

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

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

(f) the petitioner shall not tamper with evidence or witness either during investigation or 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 229A IPC.

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

-sd/-
06/01/2021

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, POONAMALLEE.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
MADURAVOYAL POLICE STATION.

+2 CC to M/S V.SUGANYA Advocate on payment of necessary charges
SR.No.112

सत्यमेव जयते

WEB COPY

CRL OP.17824/2020

Date :06/01/2021

cs 07/01/2021