

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.19820 of 2020

Muthukumar @ Ponnuthurai

... Petitioner

Vs.

State by

The Inspector of Police,
Valathy Police Station,
Valathy, Villupuram Dt.
(P.R.C. No.54 of 2017 in
Crime No.316 of 2007)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in P.R.C.No.54 of 2017 pending on the file of Judicial Magistrate, Gingee in Crime No.316 of 2007 pending investigation on the file of the Respondent.

For Petitioner : Mr.B.Jawahar

For Respondent : Mrs.M. Prabhavathi,
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

Totally, there are seven accused and the petitioner is arrayed as A6. The petitioner, who was arrested and remanded to judicial custody on 09.11.2020 seeks bail in connection with P.R.C. No.54 of 2017, pending on the file of Judicial Magistrate, Gingee in Crime No.316 of 2007 for the offence punishable under Sections 399 of I.P.C. pending on the file of respondent.

2. Earlier, the petitioner was granted bail and subsequently he is absconding. Hence, a non-bailable warrant was issued on 03.02.2017 and on the execution of the same, he was arrested on 09.11.2020. Now, he has filed this petition seeking for bail.

3. The learned counsel appearing for the petitioner submitted that the petitioner is not aware of the pending proceedings and no summons was issued to him. He would also submit that the petitioner was arrested without any warrant whatsoever and he is in jail for nearly three months. Hence, he prays for grant of bail.

4. The learned Additional Public Prosecutor appearing for the respondent opposed this petition on the ground that out of seven accused, three accused were absconding including the petitioner. She would submit that the remaining accused A1 to A3 are still absconding and the non-bailable warrant is pending against them. She would submit that the petitioner, who is arrayed as A6 alone was arrested. Hence, she opposed to grant bail to the petitioner.

5. I have heard and considered the rival submissions made by the learned counsel appearing for petitioner as well as learned Additional Public Prosecutor and perused the records.

6. Taking into consideration of the fact that no summons was issued, and also considering the period of incarceration suffered by the petitioner for nearly three months, 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, Gingee 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, on his release from prison, shall report before the committal court viz., Judicial Magistrate, Gingee on all working days until further orders;

(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.

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

-sd/-

16/02/2021

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 JUDICIAL MAGISTRATE,
GINGEE.

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM [FOR INFORMATION]

3 THE OFFICER INCHARGE
SUB-JAIL, VILLUPURAM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE
VALATHY POLICE STATION,
VALATHY, VILLUPURAM.

+1 CC to B.JAWAHAR Advocate on payment of necessary charges
SR.NO.1688

CRL OP.19820/2020

Date :16/02/2021

cs 17/02/2021