



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.24375 of 2021

Madhavan

... Petitioner

Vs.

State rep. by
The Inspector of Police
Sethiyathope Police Station
Cuddalore.
Crime No.232 of 2016

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail pending Trial in S.C.No.233 of 2017 on the file of the Learned Subordinate Judge, Cuddalore.

For Petitioner : Mr.B.Kumarasamy for
Mr.Gokulakrishnan

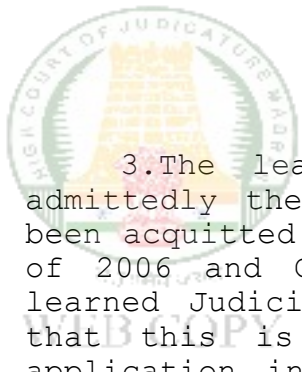
For Respondent : Mr.N.S.Suganthan
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody for the offences under Sections 392, 397, 506(ii) and 347 of IPC in Crime No.232 of 2016, on the file of the respondent police in S.C.No.233 of 2017 on the file of the Subordinate Court, Chidambaram, seeks bail.

2. The case of the petitioner is that the petitioner was earlier granted bail in Crime No.232 of 2016 and after coming out on bail, he also involved in another case which was pending on the file of the Judicial Magistrate-II, Ariyalur, in C.C.No.74 of 2011. Subsequently, NBW was issued against the petitioner following which, the petitioner appeared before the Court to recall the warrant but the same was dismissed following which, the petitioner was arrested and remanded to juridical custody and thereafter, the petitioner was produced on P.T. Warrant in this case.



3.The learned counsel for the petitioner would submit that admittedly the petitioner had got 4 previous cases and now he has been acquitted in 3 of the cases viz. in C.C.No 74 of 2011, C.C.No.39 of 2006 and C.C.No.42 of 2016 on 15.12.2021 on the file of the learned Judicial Magistrate-II, Ariyalur. He would further submit that this is the second application for bail and the earlier application in Crl.O.P.Nos.7769 and 9845 of 2020 was dismissed by this Court by order dated 13.08.2020 with a direction to the trial Judge to complete the trial within a period of 6 months after lifting of lockdown or commencement of Court's normal functioning whichever is earlier whereas, till date there is no progress in the trial since, A1 to A3 are still absconding and that the petitioner has been languishing in jail for more than 1½ years. Hence, he would pray for grant of bail to the petitioner and he would submit that the petitioner is ready to co-operate for the trial.

4.The learned Government Advocate (Crl. Side) would raise objection stating that still A1 to A3 are absconding and if the petitioner is released on bail, there is every possibility of the petitioner getting abscond.

5. It is seen that the case is of the year 2016. Though the trial began and though there was a direction to the trial Court to complete the trial within a stipulated time, since the co-accused / A1 to A3 have been absconding for a long time, there is no progress in the trial and that the petitioner alone has been languishing in judicial custody for more than 1½ years without any progress in the trial proceedings. Admittedly there is no proof to show that the police have been taking steps to secure the absconding accused. Hence, considering the above facts and circumstances of the case and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail on his executing 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-I, Chidambaram, and on further conditions that:

(a)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;

(b) the petitioner shall appear before the respondent police daily at 10.30 a.m and 5.00 p.m, until further orders and he should also appear before the Court on all Court hearings and to co-operate for the trial proceedings.



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

(d) the petitioner shall not abscond during trial;

(e) 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;

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

-sd/-
17/12/2021

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.I, CHIDAMBARAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE [FOR INFORMATION].

3 THE INSPECTOR OF POLICE,
SETHIYATHOPE POLICE STAION,
CUDDALORE.

4 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHIRAPPALLI.



CRL OP.24375/2021

JPA 20/12/2021