



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2021

CORAM :

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

Crl.O.P.No.24785 of 2021

1.C.Chinnavan @ Govindarajan
2.C.Thangabalu

... Petitioners

Vs.

State by
Inspector of Police,
Ethappur Police Station,
Salem.
(Crime No.380 of 2016)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. to enlarge the petitioners on bail in Crl.M.P.No.522 of 2021 in S.C.No.72 of 2017 dated 23.11.2021 pending trial on the file of the learned III-Additional District Judge at Salem.

For Petitioners : Mr.S.Jayakumar

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

ORDER

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody for the offences punishable under Sections 294(b), 323, 324, 326 and 302 of I.P.C., in Crime No.380 of 2016 on the file of respondent police, seeks bail.

2. The case of the petitioners is that the petitioners were earlier granted bail and thereafter, during trial, they were remanded to judicial custody for the reason that they had not prepared to cross examine the witnesses before the trial Court on 14.08.2021. Hence, the learned trial Judge on seeing their non co-operation, cancelled the bail and remanded them to judicial custody.

3. The learned counsel appearing for the petitioners submitted that the petitioners had no ulterior motive. The reasons for the non cross examination is that the property was not produced at the time of examination of witnesses and hence, the Counsel before the Court below reported no cross and aggrieved by the same, the learned trial



Judge cancelled the bail. He would submit that the petitioners are prepared to co-operate for the trial and they are even ready to file affidavit before the trial Court to that effect.

5. The learned Government Advocate (Crl. Side) appearing for the respondent police raised objection stating that if the petitioners released on bail there is every possibility of the petitioners getting abscond and thereby, the trial would be stalled.

6. Since, the case has already been tried for trial and all the accused are in judicial custody and considering the submission of the learned Counsel for the petitioners that they are ready to co-operate for trial and ready to file affidavit to that effect before the trial Court, this Court is inclined to grant bail to the petitioners with certain conditions;

(a) Accordingly, the petitioners are directed to file affidavit/s before the trial Court that they would co-operate for the trial and on filing of such affidavit/s, the petitioners are ordered to be released on bail on condition to execute separate bonds for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties out of which, one surety must be the blood surety, each for a like sum to the satisfaction of the learned III Additional District Judge, Salem, 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 petitioners shall appear before the Trial Court on all hearing dates without fail till the disposal of the case. The petitioners shall not take unnecessary adjournments during trial.

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

(e) the petitioners shall not abscond during trial;

(f) the petitioners shall not tamper with evidence or witness during trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

WEB COPY

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

-sd/-
21/12/2021

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 III ADDITIONAL DISTRICT JUDGE,
SALEM.

2 THE INSPECTOR OF POLICE,
ETHAPPUR POLICE STATION,
SALEM DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S.S.JAYAKUMAR Advocate on payment of necessary
charges SR.NO.15287

CRL OP.24785/2021

Date :21/12/2021

CSK 22/12/2021