



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 16/08/2021

PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.11421 of 2021

Arun ... Petitioner/Accused NO.2

Vs

The State rep.by,
The Inspector of Police,
Arumanai Police Station,
Arumanai, Kanyakumari District.
Crime No.361 of 2021.

... Respondent/Complainant

For Petitioner : Mr.C.Kishore, Advocate.

For Respondent : Mr.T.Senthilkumar,
Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-For bail in Crime No.361 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A2, who was arrested on 05.07.2021 and remanded to the Judicial custody on 07.07.2021, for the offence punishable under Section 436 of IPC in Crime No.361 of 2021 on the file of the respondent police, seeks bail.

2. The defacto complainant in this case is a Special Sub Inspector of Police working in Kaliyakkavilai Police Station. He lodged this complaint alleging that on 03.07.2021, at early hours, his vehicles, parked in front of his house, were set fire by two unknown miscreants. Through CCTV footage, the respondent Police fixed this petitioner and remanded him to the Judicial custody.

3. The learned counsel for the petitioner submitted that the petitioner is an Engineering Graduate and due to the pandemic situation, he is now working from his home. His residence is at Kuzhithurai and the occurrence took place at Arumanai, which is 8 km. away from his residence. He further submitted that the Investigating Officer has not projected any reason that for having taken stringent action as against the accused persons, the petitioner has caused damage to the defacto complainant's vehicle. He submitted that the petitioner is innocent and has not committed any offence as alleged by



the prosecution. But, he is languishing inside the prison since 07.07.2021 and therefore, sought for bail.

4. The learned Government Advocate(Crl.Side) submitted that the bail application in Crl.M.P.No.2975 of 2021 moved by the petitioner before the learned Principal Sessions Judge, Kanyakumari District, was dismissed on the ground that since the defacto complainant, a Special Sub Inspector of Police, had taken stringent action against the accused persons, the petitioner set fire to his TATA Sumo and Honda Unicorn bike, which were parked in front of his house. A1 is yet to be apprehended. The learned Government Advocate (Crl. Side) also produced a photograph showing the damage caused to the vehicles.

5. The learned counsel for the petitioner further submitted that in order to make things difficult for the petitioner in coming out on bail, he was unnecessarily transferred from Sub Jail, Nagercoil to Central Jail, Palayamkottai. The learned Counsel for the petitioner firmly submits that the petitioner is not having any previous case, which fact has not been disputed by the learned Government Advocate (Crl. Side).

6. It is not known as to how this petitioner has been fixed as an accused in this case. Further, there is no reason projected by the Investigating Agency that for having taken any stringent action as against the accused persons, the petitioner has caused damage to the vehicles of the defacto complainant.

7. Considering the facts and circumstances of the case, the nature of allegations levelled against the petitioner, the period of incarceration, the fact that there is no previous case as against the petitioner and since it is not known as to on what material, the petitioner was arrested by the respondent police, this Court is inclined to grant bail to the petitioner.

8. Accordingly, the Criminal Original Petition is ordered. The petitioner is directed 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 No.1, Kuzhithurai and on further condition 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 report before the concerned Judicial Magistrate daily at 10.30 a.m. until further orders.

[c] the petitioner shall not abscond either during investigation or trial.



[d] the petitioner shall not tamper with evidence or witness either during investigation or 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]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

16/08/2021

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1 THE JUDICIAL MAGISTRATE NO.I, KUZHITHURAI.

2 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

3 THE OFFICER INCHARGE,
SUB JAIL, NAGERCOIL.

4 THE INSPECTOR OF POLICE,
ARUMANAI POLICE STATION, ARUMANAI, KANYAKUMARI DISTRICT.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to Mr.K.SREE KUMARANNAIR, Advocate (SR-5424[I] dated 16/08/2021)

ORDER

IN

CRL OP(MD) No.11421 of 2021

Date :16/08/2021

OGY

MK/PN/SAR.IV/16.08.2021/3P/6C

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