



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 06.10.2021
PRESENT

WEB COPY

The Hon'ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.14370 of 2021

Vinoth @ Vinothkumar

... Petitioner/Accused No.1

Vs

The State rep.by
The Inspector of Police
Rayappanpatty Police Station
Theni District
Crime No.120 of 2013

... Respondent/Complainant

For Petitioner : Mr.A.UTHAYAKUMAR
Advocate.

For Respondent : Mr.T.SENTHILKUMAR
Additional Public Prosecutor(crl.side)

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

PRAYER :-

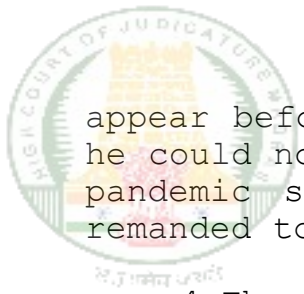
For Bail in Crime No.120 of 2013 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A1 is facing a charge for the offence under Section 366(A) I.P.C and Sections 4 and 17 of POCSO Act,2012 in SPL.S.C.No.7 of 2015 on the file of the Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Theni, seeks bail.

2. Since the petitioner failed to appear before the trial Court, a Non Bailable Warrant of arrest was issued on 01.02.2020. On 22.07.2021, the petitioner was arrested on execution of Non Bailable Warrant and remanded to judicial custody.

3. The learned counsel for the petitioner submits that though a charge sheet has been laid in the year 2015, the trial could not be completed as the second accused who is the mother of the petitioner died and whereabouts of accused nos. 4 and 5, who are none other than the brother and brother-in-law of the petitioner, were not known and therefore, delay has occurred in proceeding the trial. Further more, due to the petitioner's ill health, he could not



appear before the trial Court during the month of February 2020 and he could not surrender before the trial Court, due to the prevailing pandemic situation. Therefore, he was arrested on 22.07.2021 and remanded to judicial custody.

4.The learned Additional Public Prosecutor submits that the petitioner failed to appear before the trial Court and therefore, a Non-Bailable Warrant of arrest was issued on 01.02.2020 and the petitioner was secured only on 22.07.2021. Even though the charge sheet was filed in the year 2015, the case is pending for seven years without any progress and the petitioner has been absconding and evading the trial. He would further submit that out of 13 witnesses, 9 witnesses were examined.

5.It appears that the case has been committed to the Court of Sessions and it is pending for trial.

6.Considering the facts and circumstances of the case, the stage of the case and also the period of incarceration, this Court is inclined to grant bail to the petitioner with stringent conditions:

7.Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Theni on further conditions that:

[a] the surety shall affix his photograph and Left Thumb Impression in the surety bond and the Judge may obtain a copy of his Aadhaar card or bank pass book to ensure his identity;

[b] if the petitioner absconds, action shall be taken against the sureties and the amount undertaken by the sureties can be recovered from them;

[c] the petitioner shall appear before the trial Court daily at 10.30 a.m till the completion of trial;

[d] the petitioner shall not tamper with the evidence or witness either during investigation or trial;

[e] the petitioner shall not abscond either during investigation or trial;

[f] On breach of any of the aforesaid conditions, the learned Judge/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 Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**;

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC;

8.In this case, four more witnesses have to be examined. The services of the court are directed to split-up the case as against the



absconding accused and proceed with the trial on day-to-day basis and complete the case, as expeditiously as possible.

sd/-

06/10/2021

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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 SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM (FAST TRACK MAHILA COURT) THENI.
2. THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
3. THE INSPECTOR OF POLICE
RAYAPPANPATTY POLICE STATION
THENI DISTRICT
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.14370 of 2021

Date : 06/10/2021

SA/JM/SAR.2/06.10.2021/3P/5C