



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 22/09/2021
PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.14108 of 2021

Vijay Arockiyadoss

... Petitioner/Sole Accused

Vs

The State rep.by
The Inspector of Police,
Thanjavur Taluk Police Station
Thanjavur District
Crime No.469 of 2015

... Respondent/Complainant

For Petitioner : Mr.T.LENIN KUMAR,
Advocate.

For Respondent : Mr.T.SENTHILKUMAR,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.469 of 2015 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused is facing a charge of the offence under Sections 449, 380 and 302 I.P.C, in S.C.No.17 of 2017 on the file of the Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur.

2.Since the petitioner failed to appear before the trial Court, a Non Bailable Warrant of arrest was issued on 20.09.2018. On 04.01.2021, the petitioner was arrested on execution of Non Bailable Warrant and remanded to judicial custody. Now, the petitioner is before this Court seeking for bail.

3.The learned counsel for the petitioner submits that when the case was posted for hearing on 20.09.2018, the petitioner's mother was sick. Since he was taking care of her, he was not able to appear before the Court. Therefore, the petitioner filed a petition Section 317 Cr.P.C for condoning his absence, but the trial court dismissed the same and issued NBW against the petitioner. He further submits that the non-appearance on the particular day is neither wilful nor wanton. The learned counsel also submits that the petitioner undertakes that he would appear before the trial Court on



all future hearing dates without fail and he would not file any petition for condoning his absence and he is also prepared to file an affidavit to that effect before the trial Court.

4.The learned Additional Public Prosecutor submits that due to non-appearance of the petitioner, a Non-Bailable Warrant of arrest was issued on 20.09.2018 and the petitioner was secured only on 04.01.2021. Therefore, he strongly opposed for grant of bail to this petitioner.

5.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 willingness of the petitioner to file an undertaking affidavit and also the period of incarceration, this Court is inclined to grant bail to the petitioner.

7.Accordingly, this Criminal Original Petition is ordered. The petitioner is directed to pay a sum of Rs.10,000/- to the credit of Crime No.469 of 2015 before the Superintendent of Police, Thanjavur District. On such payment, the Superintendent of Police, Thanjavur District is directed to disburse the said amount to the persons, who executed the Non-Bailable Warrant of arrest against the petitioner. The petitioner, on showing the proof of payment, is directed 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 Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur and on further conditions that:

[a] the persons who are giving sureties are respectable persons in their locality having permanent address and the sureties shall ensure the availability of the petitioner for the entire trial.

[b] 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.

[c] the petitioner shall report before the trial Court daily for a period of 30 days and thereafter, shall appear before the trial Court on all future hearing dates without fail.

[d] the petitioner shall file an undertaking affidavit before the trial Court that he will appear before the Court regularly without filing any application to condone his absence on any date of hearing.

[e] the petitioner shall not abscond during the trial.

[f] the petitioner shall not tamper with the evidence or witness during the trial.

[g] 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]**.



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

sd/-

22/09/2021

/ TRUE COPY /

WEB COPY

/ /2021

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

COPY TO:

THE SUPERINTENDENT OF POLICE
THANJAVUR DISTRICT.

**ORDER
IN**

CRL OP(MD) No.14108 of 2021
Date :22/09/2021

SA/PN/SAR.4/22.09.2021/3P/6C