



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

Date : 29/09/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.14605 of 2021

Pakkir Mydeen

... Petitioner/Sole Accused

Vs

State Rep.by
The Inspector of Police,
Ayyampettai Police Station,
Thanjavur District.
Crime No.957 of 2021

....Respondent/Complainant

For Petitioner : Mr.V.Kathirvelu, Senior Advocate
For Mr.K.Prabhu, 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.957 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested on 19.09.2021 for the offence under Sections 294-A, 294(b), 353, 307 I.P.C, Sections 5 and 7(3) of Lotteries Regulation Act, 1998 and Section 3(1) of TNPPDL Act, in Crime.No.957 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner was illegally doing on-line lottery ticket business and when the police intervened, he attempted to assault the defacto complainant and damaged the two wheeler which was parked near the occurrence place and also caused disturbance to the public. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. He is languishing in jail from 19.09.2021 and hence, he seeks for grant of bail.



4. The learned Additional Public Prosecutor appearing for the respondent police opposed for grant of bail on the ground that the investigation is yet to be completed. He would further submit that the petitioner is having three previous cases to his credit.

5. On a perusal of record, it is seen that though the respondent police have taken a stand before the Sessions Court that the petitioner is having 12 previous cases including one case for the offence u/s 307 I.P.C and 10 cases for the offence under the Lotteries Regulation Act, a different stand has been taken before this Court that he is having only three previous cases. The explanation offered by the respondent police in this regard is not satisfactory. Even though the respondent police have pointed out that the petitioner has attempted to assault them, no one has sustained injury and only a vehicle has been damaged, for which, no photograph has been placed before this Court as to the nature of damage.

6. The learned counsel for the petitioner has also filed undertaking affidavits of two respectable persons in his locality, namely one Kamal Batcha, S/o. Abdul Majeed and one Nazeer Ahamed, S/o. Abdul Hameed, in which, they have given an assurance that this petitioner will not involve in any other offence in future.

7. Considering the facts and circumstances of the case, the undertaking affidavit filed by the aforesaid two persons, the different stands of the respondent police and also the period of incarceration, this Court is inclined to grant bail to the petitioner.

8. Accordingly, this Criminal Original Petition is ordered. The petitioner is directed to be released on bail on his executing a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only), with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.III, Thanjavur 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 until further order.

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

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

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Judicial Magistrate No.III, Thanjavur 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/-

29/09/2021

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/ /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 JUDICIAL MAGISTRATE NO.III, THANJAVUR.

2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.

3. THE OFFICER INCHARGE, SUB JAIL,
THANJAVUR.

4. THE INSPECTOR OF POLICE,
AYYAMPETTAI POLICE STATION,
THANJAVUR DISTRICT.

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

+1 CC to M/s.K.PRABHU, Advocate (SR-6687[I] dated 29/09/2021)

+1 CC to M/s.K.PRABHU, Advocate (SR-6679[I] dated 29/09/2021)

ORDER

IN

CRL OP(MD) No.14605 of 2021

Date :29/09/2021

MSA

MS/VR/SAR-1/29.09.2021/3P.8C