



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

CrI.O.P.No.2920 of 2022

Kaliyappan

.. Petitioner

Vs.

State represented by
The Inspector of Police,
Thiruchengode Town Police Station,
Namakkal District.
(Crime No.466 of 2002)

.. Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail pending trial in S.C.No.108 of 2019 on the file of the Additional District and Sessions Court, Namakkal.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mrs.G.V.Kasthuri,
Additional Public Prosecutor

O R D E R

The petitioner who was arrested and remanded to judicial custody on 17.12.2021 for the offences under Sections 450, 395 u/s.397, 394, 506(ii) of IPC in S.C.No.108 of 2019, on the file of the respondent police, seek bail.

2. The case of the prosecution is that on the date of occurrence due to the property dispute the petitioner and others are all went to the defacto complainant's property and after making criminal trespass stolen away the property which belongs to defacto complainant. Hence the defacto complainant gave a complaint before the respondent police and afterwards the present case has been registered. After filing the final report when at the time the proceedings are pending before the Trial Court the petitioner is one of the accused is not appeared and thereby the trial Court issued NBW for the petitioner's non appearance. After executing the NBW the petitioner is in the judicial custody from 07.01.2022 onwards.



3. The learned Counsel for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submitted that due to the Corona Pandemic he is not in a position to attend the Court Proceedings and thereby, NBW was issued against him. As of now after execution of NBW he is in judicial custody from 07.01.2022 onwards. Hence, he seeks for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent police would submit that due to the non appearance of the petitioner, the trial Court issued NBW and as of now the petitioner is in judicial custody.

5. Submissions made by the learned counsel on either side were considered.

6. In the petition mentioned case, the petitioner is arrayed as Accused No.26. Admittedly all other accused participated in the Court Proceedings without fail. Only on 01.11.2021 for the non appearance of the petitioner, the trial Court issued NBW and subsequently within two months the petitioner was arrested and now he is in judicial custody from 17.12.2021. Though the present case has been registered in the year of 2002, the respondent police laid a final report only in the year of 2019. Therefore, for the delay in disposal of case the petitioner is in no way responsible. Hence, the said circumstances, being the reason the petitioner is in judicial custody from 17.12.2021, this Court is inclined to grant bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail on their executing separate bonds 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 Additional District and Sessions Court, Namakkal, 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 report before the Trial Court regularly at 10.30 a.m., until further orders;

(c) the petitioner shall not tamper with evidence or witness during trial;

(d) the petitioner shall not abscond 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]; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

08/02/2022

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 ADDITIONAL DISTRICT AND
SESSIONS COURT, NAMAKKAL

2 THE INSPECTOR OF POLICE,
THIRUCHENGODE TOWN POLICE STATION,
NAMAKKAL DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

CC to M/S W. CAMYLES GANDHI Advocate on payment of necessary charges Sr.2091

CRL OP.2920/2022

Date :08/02/2022

RVR 09/02/2022