



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P. No.4039 of 2022

Midunkumar

... Petitioner /
A-2

versus

State rep. by
The Inspector of Police,
Manali Police Station,
Chennai.
(Crime No.844 of 2016)

...Respondent /
Complainant

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.51 of 2017 on the file of learned IV Additional District Sessions Judge, Ponneri.

For Petitioner : Mr.P.Sundararajan

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 16.12.2021, pursuant to the NBW issued by the learned IV Additional District Sessions Judge, Ponneri in S.C.No.51 of 2017, for the offences punishable under Sections 341, 302 r/w. 34 of IPC in Crime No.844 of 2016, on the file of the respondent police, seeks bail.

2. The petitioner is arrayed as A-2 in Sessions Case No.51 of 2017 on the file of the learned IV Additional District Sessions Judge, Ponneri. In the above referred case, the charges under Sections 341, 302 r/w. 34 of IPC has been framed against this petitioner and later, the same was posted for trial. In the meanwhile, when the case was posted for the appearance of the petitioner, he has not appeared on 20.05.2021 and ultimately, the



learned trial Judge issued NBW. After issuing NBW on 16.12.2021, the petitioner voluntarily appeared before the said Court and filed an application under Section 70(2) Cr.P.C., wherein he prayed to recall NBW. The learned IV Additional District Sessions Judge, while at the time of deciding the application filed by the petitioner, the learned IV Additional District Sessions Judge has not satisfied with the reasons stated in the application and ultimately after dismissing the said application, remanded the petitioner to the judicial custody. Hence, the petitioner is before this Court with the present petition for granting bail.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that due to illness, the petitioner was unable to appear before the trial Court on 20.05.2021, in otherwise, the petitioner is not having any intention to evade from the clutches of law. Hence, he prays for bail.

4. The learned Additional Public Prosecutor appearing for the respondent police raised objection stating that trial is pending from the year 2017 onwards, in otherwise, she fairly concedes that the petitioner voluntarily surrendered before the trial Court.

5. Considered the submissions made by the learned counsel appearing on either side. Though the petitioner is arrayed as an accused for the offence punishable under Section 302 of IPC, while at the time, he was surrendering before the trial Court for recalling the NBW, he was remanded to judicial custody. The said attitude committed by the petitioner does not show the prima facie case that he has attempted to evade from the clutches of law. Further, except the single incident, the learned Additional Public Prosecutor appearing for the respondent police did not say as the petitioner is not regular in attending the proceedings.

6. Therefore, taking note of all the above said aspects into consideration and having regard to the nature of offence committed by the petitioner and also by considering the period of incarceration, this Court is inclined to grant bail to the petitioner subject to certain conditions. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions;

(a) the petitioner shall execute 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 IV Additional District Sessions Judge, Ponneri;

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;



(c) the petitioner is directed to appear before the learned IV Additional District Sessions Judge, Ponneri, daily at 10.30 a.m. until further orders;

(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 Judicial 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/-

18/02/2022

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 IV ADDITIONAL DISTRICT
SESSIONS JUDGE, PONNERI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MANALI POLICE STATION,
CHENNAI.

+1 CC to M/S. P.SUNDARA RAJAN Advocate on payment of necessary charges SR.NO.2535

CRL OP.4039/2022

Date :18/02/2022

RW 21/02/2022