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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.04.2022

Coram::

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Criminal Original Petition No.7578 of 2022

Ramesh,
S/o.Govidan,
Karungal Nagar,
Nadupatti Post, Bargur Taluk,
Krishnagiri District.

... Petitioner / Accused

/versus/

The State Represented by,
The Sub-Inspector of Police,
Mathur Police Station,
Krishnagiri District.
(Crime No.59/2022)

... Respondent / Complainant

Prayer: This Criminal Original Petition is filed under Section 439(1)(b) of Criminal Procedure Code, 1973, pleaded to modify the order of interim bail which was imposed by the Hon'ble Principal Sessions Judge, Krishnagiri in CrI.M.P.No.399 of 2022 order dated 14.02.2022 and to grant absolute bail to the petitioner.

For Petitioner : Mr.R.Thirumoorthy

For Respondent : Mr.S.Santhosh,
Government Advocate (CrI.Side)

O R D E R

Heard the Learned Counsel for the petitioner and the Learned Government Advocate (CrI.Side) for the respondent.

2. The petitioner, who is an accused in a case of mineral theft for transporting 4 units of sand without valid permit, had approached the Principal District and Sessions



Judge, Krishnagiri for bail since he was arrested on 08.02.2022. The online application was considered by the Principal Sessions Judge, Krishnagiri, taking note of the fact that, the petitioner was found positive by Covid-19 test and was under treatment. The interim bail was granted to the petitioner on condition that he shall be released on interim bail till 07.03.2022 on executing his own bond for a sum of Rs.10,000/- and he shall surrender before the District Munsif-cum-Judicial Magistrate, Pochampalli on 08.03.2022 at about 10.30 a.m., without fail. The petitioner has not surrendered before the District Munsif-cum-Judicial Magistrate, Pochampalli, on 08.03.2022 as per the order of the Principal Sessions Judge, Krishnagiri, dated 14.02.2022 having obtained interim bail quoting his illness. The petitioner has breached the bail condition and had filed present application before this Court on 08.03.2022 seeking modification of the order passed by the Learned Principal Session Judge, Krishnagiri.

3. The sum and substances of the learned counsel for the petitioner is that, having obtained interim bail quoting Covid-19 illness instead of surrendering before the District Munsif-cum-Judicial Magistrate, Pochampalli on 08.03.2022, he sought for conversion of interim bail as regular bail before the Principal Sessions Judge, Krishnagiri and which was returned by Registry of Principal District Court, Krishnagiri is not maintainable. Therefore, seeking for modification i.e., converting interim bail as regular bail.

4. This Court finds that the petitioner herein was arrested on 08.02.2022 for the alleged offence under Section 379 of I.P.C (sand theft) for transporting four units of sand without valid permit. When sought for bail, the respondent police has strongly opposed stating that, the petitioner is an habitual offender, he has three cases of similar in nature pending. While so, he has repeated the said offence and if he released on bail, he will continue to commit the same offence. Despite the objection of the Principal District and Sessions Judge, Krishnagiri considering his illness, as granted the interim bail for a period of three weeks so that he can recover from the illness and surrender before the Judicial Magistrate and seek for regular bail, if he wishes so. By taking advantage of the order passed by the Principal District and Sessions Judge, the petitioner herein has not abide the order by not complying the condition, had awaited for his own time to move this Court under Section 439(1)(b) to modify the order of the interim bail and convert into a regular bail.

5. This Court finds that it is an attempt to damage the good will of the Court procedure, when a specific direction given to the petitioner, as a condition for interim bail which



has been breached by the petitioner if there is any genuine cause for non-compliance ought to have approached the concerned Court seeking extension of time to surrender instead he has filed an application to convert interim bail into regular bail for no reason and the Principal District Court has returned it as not maintainable which was on 28.02.2022, waited for other two weeks to file a petition before this Court under the pretext of the modification of the order passed by the Principal District Judge.

6. On considering the antecedents of this petitioner and his present conduct, this Court is of the view that the petitioner is not entitled for bail and he has to face the trial. If the petitioner is released on bail, there is every possibility of recurrence of committing this crime and also abscondance and there will be breach of the bail condition. Hence, this Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

bsm

Copy to:-

1. The Principal Sessions Judge,
Krishnagiri District.
2. The Sub-Inspector of Police,
Mathur Police Station,
Krishnagiri District.
3. The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.7578 of 2022

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NSK 12/04/2022