

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Seventh day of May Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL ORIGINAL PETITION No.12745 of 2022

SATHIYA @ SATHIYARAJ

[PETITIONER / ACCUSED]

Vs

THE INSPECTOR OF POLICE
MAYILADUTHURAI POLICE STATION,
MAYILADUTHURAI DISTRICT.
CRIME NO. 703 OF 2005.

[RESPONDENT]

For Petitioner : M/S.R.THAMARAISELVAN Advocate

For Respondent : MR. C.E.PRATAP, Govt. Advocate (Crl. Side)
Assisted by M/S.R.S.NIRANJAN, Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 341, 302 r/w.34, 120(b) IPC in Crime No.703 of 2005, seeks anticipatory bail. The petitioner is facing trial in S.C.No.274 of 2008 before the learned Sessions Judge, Mayiladuthurai and for his non-appearance NBW was issued on 21.10.2021.

2. The learned counsel appearing for the petitioner would submit that the petitioner fell sick and thereafter due to COVID-19 restrictions he was unable to appear before the learned Additional District and Sessions Judge, Mayiladuthurai in respect of the case in S.C.No.274 of 2008 and hence, non bailable warrant issued against the petitioner on 21.10.2021. He would further submit that the said absence is neither willful nor wanton and he undertakes that the petitioner shall appear before the Court below regularly on all future hearing dates without fail and co-operate with the trial.

3. The learned Government Advocate (Crl. Side) would submit that the non bailable warrant has been issued against the petitioner on 21.10.2021 and the same is pending. The learned Government Advocate (Crl. Side) would further submit that a Special Team has been formed to secure the petitioner shortly and hence opposed for grant of anticipatory bail to the petitioner.

4. It is seen that the Non-Bailable Warrant is pending from October 2021, so far the respondent police are unable to secure the petitioner. Now the petitioner had come forward to recall the Non-Bailable Warrant and undertakes to co-operate with the trial. It is seen that one of the cases pending against the petitioner viz., S.C.No.216 of 2018 is at the advanced stage of questioning under Section 313 Cr.P.C. Further keeping the case pending for execution of Non-Bailable Warrant would only delay the progress of the trial. In view of the same, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

5. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Additional District and Sessions Judge, Mayiladuthurai, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Judge concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and 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 file a petition to recall Non-Bailable Warrant already issued against him on or before the next hearing date i.e, 08.06.2022. On filing of such petition, the concerned learned Additional District and Sessions Judge, Mayiladuthurai is directed to consider the same on merits and pass orders on the same day. Thereafter the petitioner is directed to appear before the trial Court on all hearing dates daily at 10.30 a.m till completion of trial.

[c] the petitioner shall not tamper with evidence or witness either during investigation or 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].

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

-sd/-
27/05/2022

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 JUDGE, MAYILADUTHURAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
MAYILADUTHURAI POLICE STATION,
MAYILADUTHURAI DISTRICT.

+1 CC to M/S.R.THAMARAISELVAN Advocate on payment of necessary charges SR.NO. 8112

CRL OP.12745/2022

Date :27/05/2022

RW-01/06/2022