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Crl.OP.No.16078 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2022

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THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.OP.No.16078 of 2022

1. Kabilraj @ Kabil
2. Gopi

....Petitioners

Vs.

The State rep. by
The Inspector of Police,
Mayiladuthurai Police Station,
Mayiladuthurai District.
Crime No.142 of 2019

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioners on bail in respect of S.C.No.120 of 2019 on the file of the Learned Additional District Judge, Mayiladuthurai.

For Petitioners : Mr.S.P.Harikrishnan

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor



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ORDER

The first petitioner was arrested and remanded to judicial custody on 12.04.2022 and the second petitioner was arrested on 08.01.2022, on execution of Non-Bailable Warrant issued by the learned Additional District Judge, Mayiladuthurai for the offence under Sections 147, 148, 341, 324, 302, 294(b), 326 read with Section 149 of IPC pending trial in S.C.No.120 of 2019 in respect of crime No.142 of 2019 on the file of the respondent police, seeks bail.

2. It is the case of the prosecution that there are totally 16 accused in this case and the petitioners are arrayed as A8 and A9 in Crime No.142 of 2019 under Sections 147, 148, 341, 324, 302, 294(b), 326 read with Section 149 of IPC and after filing charge sheet, the same was pending before the learned Additional District Judge, Mayiladuthurai. Thereafter, the petitioners did not appear before the lower Court regularly. Hence, the lower Court has issued Non-Bailable Warrant against the first petitioner on 21.04.2022 and against the second petitioner on 03.03.2022. Thereafter, the first petitioner was arrested on



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12.04.2022 and the second petitioner was arrested on 08.01.2022

3.The learned counsel appearing for the petitioners would submit that the non-appearance before the lower Court by the petitioners is neither wilful nor wanton. However, he would also submit that the petitioners are ready to abide any condition as imposed by this Court and seeks for grant of bail to the petitioners.

4.The learned Additional Public Prosecutor would submit the lower Court has issued Non-Bailable Warrant against the first petitioner on 21.04.2022 and against the second petitioner on 03.03.2022. Thereafter, the first petitioner was arrested on 12.04.2022 and the second petitioner was arrested on 08.01.2022. He would further submit that the case is pending for trial from the year 2019. Hence, he vehemently opposed to grant bail to the petitioners.

5. The petitioners were arrested and released on bail in crime



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No.120 of 2019. After completion of investigation, the respondent filed final report and the same has been taken cognizance in SC.No.120 of 2019 pending on the file of the learned Additional District Judge, Mayiladuthurai. However, the petitioners were absent before the trial court. As such, Non Bailable Warrant was issued against them and the same was executed and they were remanded to judicial custody.

6.Considering the above facts and circumstances of the case and also the period of incarceration by the petitioners, this Court is inclined to grant bail to the petitioners.

7. Accordingly, the petitioners are ordered to be released on bail on their executing separate 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 **learned Additional District Judge, Mayiladuthurai** and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb



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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 petitioners shall report before trial Court viz., Additional District Court, Mayiladuthurai daily at 10.30 a.m and 05.30 p.m. for a period of four weeks and thereafter as and when required.

[c] the petitioners shall not abscond either during investigation or trial.

[d] the petitioners shall not tamper with evidence or witness 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

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To

- 1.The learned Additional District Judge,
Mayiladuthurai
- 2 .Inspector of Police,
Mayiladuthurai Police Station,
Mayiladuthurai District.
3. The Central Jail,
Cuddalore.
- 4.The Public Prosecutor,
High Court of Madras



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G.K.ILANTHIRAIYAN, J.

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