



Crl.OP.No.17865 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2022

CORAM

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

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1.Thavam @ Thavakumar
2.Sekar

..Petitioners/A4 & A5

Vs.

State by:-

The Inspector of Police,
Deevattipatti Police Station,
Salem District.
(Crime No.404 of 2013)

..Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to grant bail to the petitioners for pending trial in S.C.No.277 of
2016 on the file of the III Additional District Judge, Salem.

For petitioners : Mr.M.Jayachandran

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

ORDER

The petitioners/A4 & A5 who were arrested and remanded to
judicial custody on 16.03.2022 on execution of Non-Bailable Warrant

1/5



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issued by the learned III Additional District Judge, Salem for the offence under Sections 120(B), 449 read with 149, 396 and 404 read with 149 of IPC in S.C.No.277 of 2016, seeks bail.

2. The learned counsel appearing for the petitioners would submit that the petitioners regularly appeared on all hearings before the Trial Court and they did not appear for only one hearing on 14.03.2022. Immediately after coming to know about the NBW, the petitioners voluntarily surrendered for recall of the NBW. But, the petition was dismissed by the learned III Additional District Judge, Salem, for the reason that the petitioners mentioned in the surrender petition stating that due to illness, they could not appear on the date of hearing and no documents were filed to show that the petitioners are affected with illness and they also failed to state any reason for not filing any application under 317 of Cr.P.C. He further submitted that the absence of the petitioners is neither wilful nor wanton and he prays for grant of bail to the petitioners.



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3. Totally there are 5 accused, in which the petitioners are arrayed as A4 & A5. They were absent before the trial Court on 14.03.2022 and NBW was issued. Immediately, they filed a petition for recall of NBW on 16.03.2022. However, the same was dismissed and the petitioners were remanded to judicial custody.

4. Considering the above facts and circumstances of the case, this Court is inclined to grant bail to the petitioners. Accordingly, the petitioners are ordered to be released on bail on their executing a 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 III Additional District Judge, Salem** 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 petitioners shall report before the trial Court twice daily at 10.30 a.m. and 5.30 p.m., until further orders.

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

[d] the petitioners shall not tamper with evidence or witness



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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 abscond, a fresh FIR can be registered under Section 229A IPC.

01.08.2022

mpl



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G.K.ILANTHIRAIYAN, J.

mpl

To

- 1.The III Additional District Judge,
Salem.
- 2.The Inspector of Police,
Deevattipatti Police Station,
Salem District.
- 3.Central Jail,
Salem.
- 4.The Public Prosecutor,
High Court of Madras

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