



Crl.O.P.No.22564 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2022

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.22564 of 2022

1. Sivanantham
2. Arun @ Arun Pandian

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
Poompuhar Police Station,
Nagapattinam District.
Crime No.153 of 2012

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to release the petitioners/accused on bail, pending investigation in
Crime No.153 of 2012 on the file of the respondent police.

For Petitioners : Mr.K.Vivekanandhan

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)



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ORDER

The petitioners, who were arrested on 11.08.2022 pursuant to the non bailable warrant dated 10.08.2022 in S.C.No.93 of 2018 in Crime No.153 of 2012 on the file of the respondent police for the offences punishable under Sections 120-B, 147, 148, 341, 302 and 506(ii) of IPC and Section 3 and 4 of Explosive Substances Act, 1908 r/w 149 of IPC, seek bail.

2. The case of the prosecution is that the petitioners failed to appear before the Court on 10.08.2022 and thereby, the trial Court had issued a non bailable warrant of arrest as against the petitioners on the same day and the petitioners surrendered on 11.08.2022 and remanded to judicial custody. Hence, the present petition for grant of bail to the petitioners has been filed.

3. The learned counsel appearing for the petitioners would submit that the petitioners are the accused Nos.4 and 6 facing trial in S.C.No.93 of 2018 on the file of the Additional District Court, Mayiladuthurai for the offences punishable under Sections 120-B, 147, 148, 341, 302 and 506(ii) of



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IPC and Section 3 and 4 of Explosive Substances Act, 1908 r/w 149 of IPC.

He would also submit that the case was posted on 10.08.2022 for the appearance of the petitioners and they have appeared in the morning and the case was passed over for arrival of jail co-accused as well as for the examination of prosecution witnesses. In the mean time, the petitioners went to attend nature's call, and when they were away, the case was again called up and the trial Court had issued NBW and immediately the next day, i.e, on 11.08.2022, the petitioners voluntarily surrendered before the Court and filed an application for recalling of warrant, whereas, the learned trial Judge remanded them to judicial custody. He would also submit that the petitioners have been regularly appearing before the Court on all earlier hearing dates and they undertake to cooperate for the progress of the trial. He would further submit that the petitioners are in custody for more than a month. He would further state that the petitioners are prepared to file affidavit of undertaking to cooperate for the speedy disposal of the trial and also undertakes to appear before the trial Court on all hearing dates without fail. Therefore, he prays for grant of bail to the petitioners.



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4. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioners did not appear before the Court on 10.08.2022, pursuant to that, the learned trial Judge had issued a non bailable warrant of arrest against the petitioners on the same day and the petitioners surrendered before the court on 11.08.2022 and they were remanded to judicial custody. Hence, he vehemently opposed to grant bail to the petitioners.

5. Heard both the learned counsel and perused the materials available on record.

6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel and also the fact that the petitioners have surrendered immediately on the next day of issuance of non bailable warrant and filed an application for recalling the warrant, this Court is inclined to grant bail to the petitioners.



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7. Accordingly, the petitioners are ordered to be released on bail on their executing a separate 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 Additional District Court, Mayiladuthurai**, 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 learned Additional District Judge, Mayiladuthurai, on all working days at 10.30 a.m., for a period of two weeks and thereafter, on all the hearing dates without fail;

[c] the petitioners shall also file an affidavit of undertaking on the next hearing date that they will cooperate for the speedy disposal of the case;

[d] the petitioners shall not abscond either during investigation or trial;

[e] the petitioners shall not tamper with evidence or witness either during investigation or trial;



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[f] 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]**;

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

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To

1. The Additional District Court, Mayiladuthurai
2. The Inspector of Police,
Poompuhar Police Station,
Nagapattinam District.
3. The Superintendent,
Sub Jail,
Poraiyar, Mayiladuthurai District.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA., J.

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