



Crl.O.P.No.24716 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2022

CORAM

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

Crl.O.P.No. 24716 of 2022

Sivakumar

... Petitioner

Vs.

State rep by
Inspector of Police,
Sirkali Police Station,
Mailaduthurai District.
(S.C.No.118 of 2019)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in S.C.No.118 of 2019 pending on
the file of Learned Additional District Court, Mailaduthurai in Crime No.507
of 2017 on the file of the respondent.

For Petitioner : Mr.P.Muthamizhselvakumar

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 02.09.2022, pursuant to a non bailable warrant of arrest issued on 16.12.2019 in S.C.No.118 of 2019 in Crime No.507 of 2017, pending trial on the file of the learned Additional District Judge, Mailaduthurai District, seeks bail.

2. The learned counsel appearing for the petitioner would submit that the petitioner is an accused facing trial in S.C.No.118 of 2019 on the file of the learned Additional District Court, Mailaduthurai District, for the offences punishable under Sections 147, 148, 294(b), 324, 506(ii) of IPC r/w Section 3(i) of the Public Property (Prevention of Damages) Act, 1992. He would also submit that the petitioner has been regularly appearing before the Court and on 16.12.2019, the petitioner was unable to appear before the trial Court due to his illness and thereby, the trial Court had issued a non bailable warrant of arrest as against the petitioner. Subsequently, due to on set of Covid-19, the Courts were closed for about two years and due to improper advise, the petitioner did not surrender before the Court to recall the warrant. He would further submit that the petitioner had filed an application in



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Crl.O.P.No.19489 of 2022 seeking for anticipatory bail and this Court had directed the petitioner to surrender and file an application to recall the warrant and the learned trial Judge was directed to consider the same on the same day of surrender, however, even before the petitioner would get the copy of the order from the Court, the petitioner was arrested on 02.09.2022 and he has been remanded to judicial custody.

3. He would also state that the similarly placed accused had approached this Court in Crl.O.P.No.19477 of 2022 and this Court by an order dated 24.08.2022, had passed an order directing him to surrender and recall the warrant, pursuant to which, the concerned accused viz., A6 had surrendered before the Court and the trial Court has also recalled the warrant. He would further state that the petitioner has also been similarly placed as that of A6. He would also submit that the petitioner is prepared to abide by any stringent conditions that may be imposed on him and he also undertakes to file an affidavit that he will cooperate with the trial Court for speedy disposal of the trial. Therefore, he prays for grant of bail to the petitioner.



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4. Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner is a habitual offender, against whom, there are 13 previous cases pending. He would also submit that the case is now ripe for trial and it is posted for examination of witnesses on 27.10.2022. Therefore, he vehemently opposed to grant bail to the petitioner.

5. At this juncture, in reply, learned counsel appearing for the petitioner would submit that the petitioner belongs to a political party and the cases registered are for democratic protest conducted by him and most of the cases have been registered for the offences punishable under Sections 143 and 188 of IPC. Other than those and the present case, he has no other cases as against him.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record.



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7. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel, this Court is inclined to grant bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five thousand only)** each with **two sureties**, each for a like sum to the satisfaction of the **learned Additional District Judge, Mailaduthurai District**, 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 petitioner shall appear before the trial Court, on all working days at 10.30 a.m., for a period of three weeks and thereafter, on the dates fixed by the trial Court;

[c] the petitioner, after coming out on bail, shall also file an affidavit of undertaking that he will cooperate for the speedy disposal of the trial;



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

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

[f] 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]***;

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

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To

1. The learned Additional District Court, Mailaduthurai.
2. The Inspector of Police,
Sirkali Police Station,
Mailaduthurai District.
3. The District Prison,
Nagapattinam.
4. The Public Prosecutor,
High Court of Madras.



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