



Crl.O.P.No.26173 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2022

CORAM

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

Crl.O.P.No.26173 of 2022

Arshath ali

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Anaikaranchathiram Police Station,
Mayiladuthurai District.
Crime No.223 of 2016.

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail pending trial of the case in S.C.No.40
of 2019 on the file of the learned Additional District Judge, Mayiladuthurai.

For Petitioner : Mr.M.Vijaya Ragavan

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 28.09.2022 pursuant the non-bailable warrant issued against him on 06.06.2022, in S.C.No.40 of 2019, on the file of the learned Additional District Judge, Mayiladuthurai.

2. The learned counsel for the petitioner would submit that the petitioner has been arrayed as A4, facing trial in S.C.No.40 of 2019 pending on the file of the learned XVIII Additional District Judge, Mayiladuthurai for the offence under Section 302 of IPC. He would further submit that, due to illness, the petitioner did not appear before the Court on 06.06.2022 and hence, a Non Bailable Warrant was issued against him. Thereafter, the petitioner approached this Court in Crl.O.P.No.22428 of 2022 on 19.09.2022 seeking for recall of Non-Bailable Warrant and this Court directed the petitioner to surrender, pursuant to which, the petitioner surrendered on 28.09.2022 and filed application to recall the warrant. He would also submit that the warrant recall petition was also dismissed and the petitioner has been remanded to judicial custody. He would further submit that the petitioner is prepared to comply with any stringent condition that may be imposed by this



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Court and also undertakes to co-operate for the speedy disposal of the trial and also the petitioner is ready to furnish blood sureties before the concerned Court. Therefore, he prays for grant of bail to the petitioner.

3. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner has been all along regularly appearing before the court and on 06.06.2022, he failed to appear before the Court and therefore, the Court has issued a NBW against him and pursuant to which the petitioner has been arrested on 28.09.2022. Hence, he oppose to grant bail to the petitioner.

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

5. Taking into consideration the facts and submissions of the case and the submissions made by the learned counsel and also considering that the petitioner had voluntarily surrendered, this Court is inclined to grant bail to the petitioner with a condition **that the petitioner after coming out of bail, he shall file an undertaking that he will co-operate for speedy**



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disposal of the trial before the trial Court.

6. 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)** 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 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 report before the learned trial Court on all working days, at 10.30 a.m., till framing of charges and thereafter on the dates fixed by the learned trial Judge.

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

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



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

28.10.2022

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To

- 1.The learned Additional District Judge,
Mayiladuthurai.
- 2.The Inspector of Police,
Anaikaranchathiram Police Station,
Mayiladuthurai District.
- 3.The District Jail,
Nagapattinam.
4. The Public Prosecutor,



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High Court of Madras.

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A.D.JAGADISH CHANDIRA.,J.

Sma

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