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Crl.O.P.No.26798 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2022

CORAM

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

Crl.O.P.No.26798 of 2022

Samil Ahamed

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
D5, Marina Police Station,
Chennai.

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in S.C.No.269 of 2022 pending
before the III Additional Sessions Judge, Chennai.

For Petitioner : Mr.P.Thinesh

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 13.09.2022 pursuant the non-bailable warrant issued against him on 07.09.2022, in S.C.No.269 of 2022, on the file of the III Additional Sessions Court, Chennai, seeks bail.

2. The learned counsel for the petitioner would submit that the petitioner is an accused facing trial in S.C.No.269 of 2022 pending on the file of the learned III Additional Sessions Court, Chennai in Crime No.69 of 2022 for the offence under Sections 302 r/w 34 IPC. He would further submit that originally the petitioner got bail and he has been all along regularly appearing before the Court and since, on 07.09.2022, the petitioner, due to his illness, was unable to appear before the Court and also he was unable to inform his counsel to file an application for dispense with his appearance, a Non Bailable Warrant was issued against him and pursuant to which the petitioner was arrested on 13.09.2022. He would also submit that while the petitioner was taking steps to recall warrant, he has been arrested. He would also reiterate that except on 07.09.2022, the petitioner has been all



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along regularly appearing before the court and he is prepared to comply with any stringent condition that may be imposed by this Court and ready to furnish sufficient sureties. He would further submit that the petitioner is ready to co-operate the respondent Police for speedy disposal of the trial. 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 regularly appearing before the court and on 07.09.2022, 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 13.09.2022. He would also submit that there is no previous case as against the petitioner. However, he oppose for grant of 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.



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5. Taking into consideration the facts and submissions of the case and the submissions made by the learned counsel and also considering the fact that the petitioner except on 07.09.2022, he has been regularly appearing before the court, this Court is inclined to grant bail to the petitioner with certain conditions.

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 III Additional Sessions Judge, Chennai**, 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 Judge on all working days, at 10.30 a.m., without fail, for a period of two weeks and thereafter, on the date fixed by the learned trial Judge;



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[c] the petitioner after coming out of bail shall file an Affidavit of Undertaking that he will co-operate for speedy disposal of the trial;

[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.

03.11.2022

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To

- 1.The III Additional Sessions Judge,
Chennai.
- 2.The Inspector of Police,
D5, Marina Police Station,
Chennai.
- 3.The Central Prison,
Puzhal,
Chennai.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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