



Crl.O.P.No.27754 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2022

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

Crl.O.P.No.27754 of 2022

Prabakaran

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Mayiladuthurai Police Station,
Mayiladuthurai District.

(Crime No.226 of 1998)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in S.C.No.173 of 2015 pending on
the file of the learned Additional District and Sessions Judge,
Mayiladuthurai District.

For Petitioner : Mr.B.Thiyagarajan

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



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ORDER

The petitioner, who was remanded to judicial custody on 31.10.2022, in S.C.No.173 of 2015, on the file of the learned Additional District and Sessions Court, Mayiladuthurai District, seeks bail.

2. The learned counsel for the petitioner would submit that the petitioner is an accused (A11) facing trial in S.C.No.173 of 2015 pending on the file of the learned Additional District and Sessions Court, Mayiladuthurai, in Crime No.226 of 1998 for the offence under Sections 147, 148, 341, 324, 332 IPC r/w 3(1) of Tamil Nadu Prevention of Damages to Public Property Act. He would further submit that the petitioner has been all along regularly appearing before the Court and since he was suffering from Jaundice, he was unable to appear before the Court on 11.08.2018, due to which, a Non Bailable Warrant was issued by the learned trial Judge against him.

3. The learned counsel would further submit that subsequently, due to covid, the petitioner was unable to surrender and recall his warrant and



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later, he approached this Court on filing a petition in Crl.O.P.No.19997 of 2022 to recall his non-bailable warrant and the same was disposed on 26.08.2022 with a direction to surrender before the trial Court and file an application to recall the warrant. He would further submit that in due compliance of the order, the petitioner has filed a petition to recall his warrant, whereas, the learned trial Judge has remanded him. He would also submit that the petitioner's father has undergone an open reduction and internal fixation (ORIF) with closed reduction internal fixation (CRIF) surgery and the petitioner being the son has to take care of him. He would also reiterate that except on 11.08.2018, the petitioner has been all along regularly appearing before the court and he is prepared to comply with any stringent condition that may be imposed by this Court. 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.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the case is of the year 1998 and there are 30 accused in this case and since, the accused one after another absconding, the



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learned trial Judge was unable to commit the case to the learned Sessions Court and ultimately, the case has been committed to the Court of Sessions during the year 2015. He would further submit that since the petitioner failed to appear before the Court on 11.08.2018, the Court has issued a NBW against him. He would also submit that the case now stands posted on 24.11.2022 for framing of charges and at this stage, if the bail is granted to the petitioner, there is every possibility for him to abscond and it would derail the trial. He would also state that there is no previous case as against the petitioner. However, he oppose for grant of bail to the petitioner.

5. In reply, the learned counsel for the petitioner would submit that the case is for the offence under Sections 3(1) of Tamil Nadu Prevention of Damages to Public Property Act r/w Sections 147, 148, 341, 324, 332 IPC and he would submit that the petitioner is ready to furnish blood sureties and undertakes to appear before the learned trial Court everyday at 10.30 a.m. He would reiterate that the petitioner is prepared to comply with any stringent condition that may be imposed by this Court and hence, he prays for grant of bail to the petitioner.



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

7. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel and also considering the period of incarceration and the undertaking given by him to appear before the trial Court without fail, 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)** with **two blood related sureties** (who should produce document to show his/her means), each for a like sum to the satisfaction of the **learned Additional District Judge, Mayiladuthurai**, and on further conditions that:



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[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., till framing of charges and shall also appear before the respondent Police, every Saturday at 10.30 a.m., until further orders;

[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]*;



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

11.11.2022

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To

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



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A.D.JAGADISH CHANDIRA.,J.

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