



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 25/04/2022

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI
CRL OP(MD). No.3052 of 2022

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Suresh

... Petitioner/Accused No.3

Vs

State Rep.by
The Inspector of Police,
Fort Police Station,
Trichy City,
Crime No.718 of 2019.

... Respondent/Complainant

For Petitioner : M/s.Karthikeyan C,
Advocate.

For Respondent : Mr.M.Veerendran,
Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in Crime No.718 of 2019 on the file of the Respondent police.

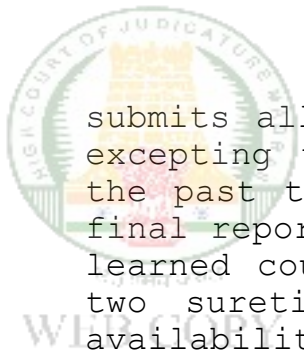
ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent.

2.The petitioner/A3, who was arrested and remanded to judicial custody on 10.10.2019, for the offences punishable under Sections 457 & 380 IPC altered to 120(b), 109, 457, 380 r/w 414 IPC, in Crime No.718 of 2019 on the file of the respondent police, seeks bail.

3.The case of the prosecution is that on 01.10.2019, the petitioner and other accused have criminally conspired together, have trespassed into a jewellery shop and stolen gold jewels, diamonds and platinum worth about Rs.12,31,14,100/-. Hence, this complaint.

4.The learned counsel appearing for the petitioner submits that this is the second application filed by the petitioner, seeking bail. Earlier application filed by the petitioner was dismissed on 03.08.2021, on the ground that apart from this case, this petitioner involved in 29 other cases. He further submits that those 29 cases have been registered as against this petitioner, only through the confession statement recorded in Crime No.718 of 2019. He further



submits all other accused in this case have been released on bail, excepting this petitioner and he has been languishing in jail for the past three years. He reiterated that in most of the cases, no final report has been filed by the respective respondent police. The learned counsel appearing for the petitioner has come forward with two sureties of Government servants that they will ensure the availability of this petitioner for the trial.

5.This Court, in earlier occasion directed the respondent police to ascertain the reliability of the sureties proposed by the petitioner, in pursuant to which, the respondent police have filed a report stating that one of the sureties, namely Rajasekaran S/o Pakkirasamy, as mentioned in his affidavit resides at No.114, Alagiri Street, Panagal Road, Thiruvavur District and he is working as Office Assistant in Highways, C & M, Nannilam. Insofar as the other surety namely Mariappan S/o Nagarajan is concerned, he is found to be a Real Estate Entrepreneur and it was also found that he has two previous cases and in one case(CC No.1000/2019, dated 14.09.2019) he was convicted.

6.In reply,the learned counsel appearing for the petitioner submits that he has come forward with another surety, by name, Chandrasekar S/o Thangavel, who is working as Gang Mazdoor in Highways C& M, Nannilam. He also filed an affidavit of Chandrasekar to the effect that he is prepared to give surety for the petitioner and he will ensure this petitioner's availability for the trial.

7.This Court considered the rival submissions made and perused the materials placed on record.

8.On perusal, it is seen that the petitioner/accused No.3 was arrested and remanded to judicial custody on 10.10.2019. It is said to have been stated that he was implicated in 29 other cases, through the confession statement of the co-accused, recorded on 02.10.2019. There is no recovery from this petitioner in this case. Excepting this case, in none of the cases pending against the petitioner, the respondent police have not filed their final reports for the past three years. The petitioner has also offered two sureties and they are Government servants working in Highways Department. The sureties have also filed affidavits before this Court that they will ensure the availability of the petitioner/accused No.3 for the trial. It is also brought to the notice of this Court that the case was taken on file in CC No.584 of 2020 by the learned Judicial Magistrate No.I, Tiruchirappalli and as on date, 13 witnesses have been examined and the case is posted today for examination of other witnesses.

9.Considering the submissions made on either side and considering the facts such as, no final reports have been filed in other 29 cases pending against the petitioner, no recovery has been



on file by the concerned Magistrate and examination of witnesses is going on, the petitioner has also offered two Government servant sureties and also considering the period of incarceration, this Court is inclined to grant bail to the petitioner with certain stringent conditions.

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10. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Tiruchirappali, 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. The sureties shall ensure the availability of the petitioner/accused No.3 for the trial, till its conclusion.

[b] the petitioner shall report before the trial Court daily at 10.30 a.m, until the trial is completed. The petitioner shall also report before the respondent police twice in a week on every Saturday and Wednesday, till the conclusion of the trial.

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

[d] the petitioner shall not tamper with the evidence or witness either during investigation or trial. If he attempts to tamper or abscond, it is always open to the respondent police to file appropriate application to cancel the bail.

[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.

sd/-

25/04/2022

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25/04/2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1 THE JUDICIAL MAGISTRATE NO.I,
TIRUCHIRAPPALLI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.

3 THE INSPECTOR OF POLICE,
FORT POLICE STATION,
TRICHY CITY, TRICHY.

4 THE SUPERINTENDENT,
CENTRAL PRISON,
TRICHY.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.3052 of 2022

Date :25/04/2022

RS/VR/SAR.3 (25.04.2022) 4P-6C