



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
RESERVED ON : 28/06/2022
PRONOUNCED ON: 30/06/2022
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR
CRL OP(MD). No.10895 of 2022

WEB COPY

Abdul Rashid

... Petitioner/Accused No.3

Vs

State Rep.by
The Inspector of Police,
Q Branch CID,
Ramanathapuram District.
Crime No.2 of 2021.

... Respondent/Complainant

For Petitioner : Mr.N.Anantha Padmanabhan,
for M/s.APN Law Associates,
For Respondent : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor

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

PRAYER :-

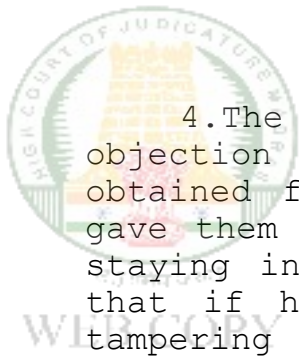
For Bail in Crime No.2 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A3, who was arrested and remanded to judicial custody on 28.12.2021 for the offences punishable under Sections 465, 468, 471, 420 and 109 of IPC r/w Section 39 of the Unlawful Activities Prevention Act, 1967, in Crime No.2 of 2021, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the accused 1 and 2 with the help of the petitioner had secured Aadhar Card and ration card by assigning a fake address that belongs to one Sidhi Sulekha of Enmanam Kondan Village and pretended to be Indian citizen, purchased SIM cards and these persons were creating Whats App group and were planning to Induct Indian youth to support ISIS. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. He would further submit that the petitioner is in judicial custody from 28.12.2021.



4.The learned Additional Public Prosecutor has filed his objection stating that based on the guidance of the petitioner, A1 obtained fake Indian documents and thereby, bought SIM Cards and gave them to A4, a member of the banned ISIS organization, who is staying in Pakistan, that the petitioner is a Malaysian national, that if he is released on bail, there is every possibility of tampering of witnesses and he is likely to continue to commit such unlawful activities and that the investigation is under active progress.

5.No doubt, the petitioner's earlier application in Crl.O.P. (MD)No.2897 of 2022 was dismissed by this Court, vide order dated 18.02.2022.

6.The learned Counsel for the petitioner would submit that the petitioner has already surrendered his Malaysian passport and that though the State Government has already sent a report to the National Investigating Agency for further investigation, there was no further action, even after 180 days and that the petitioner's first and third applications were dismissed as withdrawn.

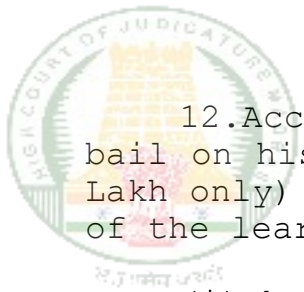
7.The learned Counsel for the petitioner would further submit that since the respondent police, even after taking extension of time for investigation upto 180 days, they have not chosen to file the charge sheet so far and that therefore, the petitioner is certainly entitled to get statutory bail under Section 167(2) Cr.P.C.

8.No doubt, in cases where the High Court is approached for regular bail and at the time of enquiry, if the time contemplated under Section 167 Cr.P.C., to file the charge sheet gets expired, then the accused can canvass his right to get statutory bail under Section 167 Cr.P.C., if charge sheet is not filed and the High Court along with the merits of the case, can also take into account the petitioner's entitlement for getting statutory bail.

9.The learned Additional Public Prosecutor appearing for the State would submit that the petitioner has surrendered his Malaysian passport, that they have not filed the charge sheet so far and that in case of granting bail, the petitioner may be directed to hand over his Indian Passport before the concerned Court.

10.The learned Counsel for the petitioner would submit that the petitioner is ready and willing to hand over his Indian Passport before the concerned Court.

11.Considering the facts and circumstances of the case and also the fact that the respondent police has not chosen to file the final report, even after getting extension of time upto 180 days for investigation, this Court concludes that the petitioner is entitled to get statutory bail, subject to the following conditions:



12. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Ramanathapuram;

(i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(ii) the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders.

(iii) **the petitioner shall surrender his Indian passport before the concerned Court;**

(iv) the petitioner shall not tamper with evidence or witness.

(v) the petitioner shall not abscond during trial.

(vi) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]***.

(vii) If the accused / petitioners thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-

30/06/2022

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30/06/2022

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

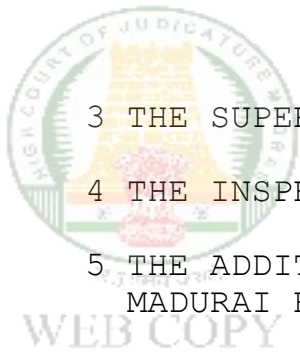
Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1 THE JUDICIAL MAGISTRATE NO.II, RAMANATHAPURAM.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, RAMANATHAPURAM DISTRICT.

<https://hcservices.ecourts.gov.in/hcservices/>



3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

4 THE INSPECTOR OF POLICE, Q BRANCH CID, RAMANATHAPURAM DISTRICT.

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

+1 CC to M/s.APN LAW ASSOCIATES, Advocate (SR-6394[I] dated
30/06/2022)

ORDER

IN

CRL OP(MD) No.10895 of 2022

Date :30/06/2022

RS/PN/SAR.4 (30.06.2022) 4P-7C