



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 09.12.2022

PRESENT

WEB COPY

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.21126 of 2022

M.Mottaiyasamy

... Petitioner/Accused No.2

Vs

The State represented by
The Sub-Inspector of Police,
Thoothukudi South Police Station,
Thoothukudi District.
(Crime No.229 of 2014).

... Respondent/Complainant

For Petitioner : Mr.S.Vishnuvardhan,
Advocate.

For Respondent : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor.

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

PRAYER :-

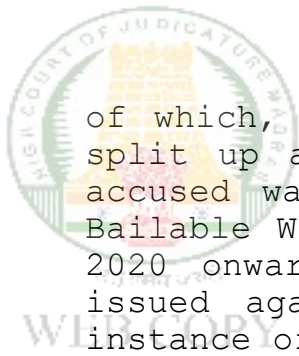
For Bail in connection with the case in S.C.No.33 of 2018 before the learned II Additional Sessions Judge, Thoothukudi, in Crime No.229 of 2014 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/A.2, who is facing a case for the offences punishable under Sections 147, 148, 294(b), 341, 302, 506(2) and 120 (B) IPC, in S.C.No.33 of 2018, on the file of the learned II Additional Sessions Judge, Thoothukudi, in Crime No.229 of 2014, on the file of the respondent police, seeks bail.

2. It is evident from the records that since the petitioner has not turned up for the hearing on 23.02.2021, Non-Bailable Warrant (NBW) was ordered to be issued and that the petitioner has surrendered before the concerned Court on 25.03.2022 and the learned Magistrate by dismissing the recall application, remanded the accused to judicial custody.

3. The learned Additional Public Prosecutor appearing for the respondent would submit that there are 15 accused in this case, out



of which, two accused were already reported dead and the as split up as against the second accused and after trial, the said accused was already acquitted. He would further submit that Non-Bailable Warrant (NBW) is pending against the accused 3 and 4 from 2020 onwards. He would further submit that earlier, warrant was issued against the petitioner in 2018 and subsequently, at the instance of the petitioner, the same was recalled.

4. When the matter was taken up for hearing earlier, considering the submission made by the learned Government Advocate (Criminal Side) that the fourth accused was arrested by Andrapradesh Police in connection with some other case and the respondent police has taken steps to get PT warrant for production of the fourth accused before the concerned Court, this Court directed the Registry to call for a report from the concerned Court as to the steps taken to comply with the order of this Court.

5. In pursuance of the same, the learned II Additional District and Sessions Judge, Thoothukudi, has submitted a report dated 06.12.2022 stating that the prosecution till 23.11.2022 has not taken steps for the appearance of the fourth accused on the PT warrant, that at the request of the prosecution side, PT warrant was issued for the fourth accused, who was confined in Central Prison, Vishakapattinam for the hearing on 16.12.2022, that even after the splitting up the case against the Non-Bailable Warrant (NBW) pending accused, the remaining accused 1 and 3 to 9 have not appeared on any one hearing to enable the Court to frame the charges and to proceed with the case and that on account of the irregularity in the appearance of all the accused, the charges could not be framed.

6. The learned Additional Public Prosecutor appearing for the respondent would submit that they are taking steps to produce the fourth accused on PT warrant. He would further submit that the petitioner is having two murder cases, out of which, one case was already ended in acquittal and other the case is pending for committal.

7. It is not in dispute that the petitioner is in judicial custody from 25.03.2022.

8. Considering the above facts and circumstances and also the facts that the petitioner is in judicial custody from 25.03.2022 and that despite of direction of this Court, the trial Court is not yet framed charges, this Court is inclined to grant bail to the petitioner subject to the following conditions:

9. 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 Judicial Magistrate No.I, Thoothukudi.



(i) the sureties shall affix their photographs and leave their 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 trial Court twice (i.e.,) at 10.30 a.m. and 05.00 p.m., on all working days until further orders;

(iii) the petitioner shall not tamper with evidence or witness;

(iv) the petitioner shall not abscond during trial;

(v) 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]**.

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

sd/-

09/12/2022

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09/12/2022

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

TO

1. THE II ADDITIONAL SESSIONS JUDGE,
THOOTHUKUDI.
2. THE JUDICIAL MAGISTRATE NO.I,
THOOTHUKUDI.
3. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
4. THE SUB INSPECTOR OF POLICE,
SOUTH POLICE STATION, THOOTHUKUDI DISTRICT.
5. THE OFFICER-INCHARGE,
DISTRICT JAIL, PERAURANI, THOOTHUKUDI.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.21126 of 2022

Date : 09/12/2022

CSM

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