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Crl.O.P.No.971 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2023

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THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.971 of 2023

Benjamin Babu @ Babu

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Town Police Station, Erode,
Erode District.

(Crime No.738 of 2009).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail pending in Crime No.738 of 2009
pending on the file of the respondent.

For Petitioner : Mr.S.Kingston Jerold

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 26.10.2022 for the alleged offences punishable under Sections 379 of IPC, in Crime No.738 of 2009 on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that the petitioner along with the other accused committed theft of Rs.7,50,000/- from the de-facto complainant. Hence the case.

3. Learned counsel for the petitioner submitted that the petitioner is arrayed as A2 in Crime No.738 of 2009. He further submitted that the petitioner originally obtained bail and was regularly appearing before the Court and subsequently, he was arrested in another case, due to which, he did not appear before the Court on 19.10.2010, thereby, a Non Bailable Warrant was issued against him and pursuant to which, he was arrested on 28.10.2022. He also stated that the petitioner prepared to comply with any stringent condition that may be imposed by this Court and ready to furnish sufficient sureties. Therefore, he prays for grant of bail to the petitioner.



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4. Learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioner, who is arrayed as A2 in this case, has failed to appear before the Court on 19.10.2010 and therefore, the Court has issued a NBW against him and pursuant to which, he was arrested on 28.10.2022. He further submitted that the non-bailable warrant was pending against the petitioner for about 12 years and if the bail is granted to him, it will be difficult for the respondent to secure him. Hence, he opposed to grant bail to the petitioner.

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

6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel for the petitioner and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner.

7. Accordingly, the petitioner is ordered to be released on bail on



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his executing a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** with **two sureties** (out of which, one should be the blood surety, who should produce document to show his/her means), each for a like sum to the satisfaction of the **learned Judicial Magistrate No.II, Erode**, 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 respondent Police on alternative days at 10.30 a.m., for a period of eight weeks and thereafter, as and when required for interrogation;

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

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[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



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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.

12.01.2023

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To

1. The Judicial Magistrate No.II,
Erode.
2. The Inspector of Police,
Town Police Station, Erode,
Erode District.
3. The Central Prison,
Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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T.V.THAMILSELVI,J.

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