

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2023

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

Crl.O.P.No.5761 of 2023

Karthik @ Molam Karthik

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
V6 Kolathur Police Station,
Chennai.

(PRC No.47 of 2022)
(Crime No.563 of 2021).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail, pending trial in PRC No.47 of 2022,
on the file of the XIII Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.S.Y.Syed Parvez

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 01.02.2023, pursuant to the non-bailable warrant issued on 10.01.2023, in P.R.C.No.47 of 2022 in connection with Crime No.563 of 2021, on the file of the respondent police, seeks bail.

2. Learned counsel for the petitioner submitted that the petitioner is an accused facing trial in P.R.C.No.47 of 2022, for the alleged offence under Sections 174 Cr.P.C @ 306, 367, 354 of IPC, pending on the file of the learned XIII Metropolitan Magistrate, Egmore, Chennai. He further submitted that the petitioner has all along been regularly appearing before the Court on all hearing dates, whereas, on 10.01.2023, since the petitioner was not feeling well, he was unable to appear before the trial Court, thereby, a Non Bailable Warrant was issued against him and pursuant to which, he was arrested from his residence on 01.02.2023. He also submitted that the petitioner, due to some mis-communication with his Advocate, he was unable to file the petition under Section 317 Cr.P.C.

3. He further submitted that after the arrest of the petitioner, the case has also been committed to the Court of Sessions and been numbered as S.C.No.131 of 2023 on the file of the learned II Additional Sessions Judge, Chennai. He also submitted that the petitioner is prepared to abide by any stringent condition that may be imposed by this Court and also he is ready to co-operate for speedy disposal of the trial. Therefore, he prays for grant of bail to the petitioner.

4. Learned Additional Public Prosecutor appearing for the respondent submitted that since the petitioner has failed to appear before the trial Court in P.R.C.No.47 of 2022 on 10.01.2023, a Non-Bailable Warrant was issued against him and pursuant to the same, he was arrested on 01.02.2023. He further submitted that subsequently, the case has been committed to the Court of Sessions in S.C.No.131 of 2023 before the II Additional Sessions Judge, Chennai. He further submitted that the petitioner is a habitual offender, against whom 12 previous cases are pending. He also submitted that the case now stands posted on 24.03.2023, for furnishing copies to the petitioner, therefore, if bail is granted to the petitioner, there is

every possibility of him, to abscond again and would derail the progress of trial. Therefore, he opposed to grant bail to the petitioner.

5. Heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor and perused the materials available on record.

6. Taking into consideration the facts and circumstances of the case, the submissions made by either side of the parties and taking note of the fact that the petitioner, except on 10.01.2023, he has been regularly appearing before the court concerned and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions

7. 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** (out of which one surety should be a blood related surety and should produce document to show his/her means), each for a like sum to the satisfaction of the **learned XIII Metropolitan Magistrate, Egmore, Chennai**, 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 appear before the learned II Additional Sessions Judge, Chennai on all working days at 10.30a.m., till framing of charges and thereafter, on the dates fixed by the learned trial Judge;

[c] the petitioner shall not abscond during trial;

[d] the petitioner shall not tamper with evidence or witness during 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 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.

13.03.2023

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To

1. The XIII Metropolitan Magistrate, Egmore,
Chennai.
2. The II Additional Sessions Judge,
Chennai.
3. The Inspector of Police,
V6 Kolathur Police Station,
Chennai.
4. The Central Prison,
Puzhal, Chennai.
5. The Public Prosecutor,
High Court of Madras.

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A.D.JAGADISH CHANDIRA.,J.

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