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Crl.O.P.No.6936 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2023

CORAM

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

Crl.O.P.No.6936 of 2023

Albert Arul Xavier Joseph

... Petitioner

Vs.

State rep. by  
The Inspector of Police  
Puduchatram Police Station  
Namakkal District.  
(Crime No.358 of 2005)

... Respondent

**PRAYER:** Criminal Original Petition filed under Section 439 of Cr.P.C.,  
pleaded to enlarge the petitioner on bail in Crime No.358 of 2005 pending  
investigation on the file of the respondent police.

For Petitioner : Mr.S.Sivakumar

For Respondent : Mr. C.E.Pratap  
Government Advocate (Crl. Side)

**ORDER**

The petitioner, who was arrested and remanded to judicial custody  
on 04.03.2023, for the offences punishable under Sections 392, 395 @ 367,  
395 r/w 397 of IPC in Crime No.358 of 2005 on the file of the respondent  
police in PRC.No.08 of 2009 on the file of the learned Judicial Magistrate  
No.II, Namakkal, seeks bail.



2. It is a case of jumped bail. The petitioner was arrested on 04.03.2023 on execution of Non Bailable Warrant issued against him.

3. The learned counsel for the petitioner would submit that the was earlier arrested in another case and when he was in judicial custody, the petitioner was arrested in the present case through PT warrant. Later, the petitioner was released on bail. Subsequently, the respondent police completed the investigation and filed final report in the present case and the same was taken on file in PRC No.8 of 2009. However, no summon was issued to the petitioner. In the meanwhile, the other accused appeared before the trial Court and since the petitioner was shown as an absconding accused, the case against the other accused was split up and committed to the Court of Sessions and subsequently, after trial, the other accused were acquitted. He would further submit that the petitioner has been living in the same address for more than 15 years. However, without any summon, the learned Magistrate has issued Non Bailable Warrant against the petitioner pursuant to which, the petitioner was arrested on 04.03.2023. He would further submit that the petitioner is ready to abide by any stringent condition and he is also ready to co-operate for the speedy disposal of the trial. Hence, he would pray for grant of bail to the petitioner.



4. The learned Government Advocate (Crl. Side) appearing for the respondent police would submit that the petitioner did not appear before the trial court and hence, the petitioner was arrested on execution of Non Bailable Warrant and as on date, the case has been committed to the Court of Sessions viz., the Additional District and Sessions Judge, Namakkal and it is yet to be numbered. Hence, he would oppose for the grant of bail to the petitioner.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) 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 also considering the fact that without any summon, Non Bailable Warrant has been issued against the petitioner and that the petitioner has been residing in the same address for more than 15 years 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.10,000/- (Rupees Ten thousand only)**

with **two sureties**, each for a like sum to the satisfaction of the **learned**

**Judicial Magistrate-II, Namakkal**, 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 Additional District and Sessions Judge, Namakkal, on all working days at 10.30 a.m. till framing of charges and thereafter, report before the trial Court on the date fixed by the trial Court.**

[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 in *P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]*;



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[f] If the accused thereafter abscond, a fresh FIR  
can be registered under Section 229A IPC.

8. The trial Court is directed to take every endeavour to complete the trial as expeditiously as possible preferably within a period of four months from the date of receipt of a copy of this order.

**31.03.2023**

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To

1. The Judicial Magistrate No.II,  
Namakkal.
2. The Inspector of Police  
Puduchatram Police Station  
Namakkal District.
3. The Superintendent,  
Central Prison, Salem.
4. The Public Prosecutor,  
High Court of Madras.



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**A.D.JAGADISH CHANDIRA.,J.**

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**31.03.2023**