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Crl.O.P.No.9903 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.04.2023

CORAM :

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

Crl.O.P.No.9903 of 2023

Mr.Azhar @ Immamoli,
S/o. E.Mugamad Sharif

.. Petitioner

Vs.

State represented by
The Inspector of Police,
Villupuram Town Police Station,
Villupuram.
(Crime No.375 of 2016)

.. Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.375 of 2016 on the file of respondent police.

For Petitioner	:	Mr.M.Mohammed Rafi
For Respondent	:	Mr.S.Vinoth Kumar Govt. Advocate (Crl. Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 08.12.2022 for the alleged offence under Sections 147, 148, 294(b), 341, 323, 324, 307, 302, 506(ii), 120(B) of I.P.C. r/w 4, 5 of Explosive Substances Act in Crime No.375 of 2016 on the file of the respondent police, pending trial in P.R.C.No. 27 of 2017 on the file of learned Judicial Magistrate No.1, Villupuram, seeks bail.

2. It is a case of jumped bail. The petitioner was arrested and remanded to judicial custody on 08.12.2022 on execution of non bailable warrant issued against him.

3. The learned counsel for the petitioner would submit that the petitioner was earlier granted bail and thereafter, he was regularly appearing before the trial Court. However, due to his non-appearance before the Court, subsequently, the learned Magistrate issued non bailable warrant against the petitioner following which, the petitioner was arrested and remanded to judicial custody on 08.12.2022. He would submit that the petitioner has been suffering incarceration from 08.12.2022. He would further submit that the petitioner is ready to



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appear before the Court regularly and to co-operate for the trial and this is the second petition seeking for bail. Hence, he prayed to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) raised objection stating that there are 8 previous cases including 2 cases under Sec.302 of I.P.C. and 2 cases under Sec.307 of I.P.C. pending against him. He would submit that when he did not appear before the trial Court, non bailable warrant was issued against him and he was arrested on 08.12.2022. He would also submit that in one case, trial is commenced and one case is at committal stage. He would also submit that he has not challenged the non-bailable warrant issued by the trial court and earlier he was arrested in the year of 2020 and he absconded for more than 2 years and from the year of 2020, he is not cooperating for trial and after securing him only, the trial is in progress. Hence, if he is released on bail, he may abscond and the trial would be stalled.

5. Taking into consideration the facts and the submissions made by both counsel and also considering the period of incarceration



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suffered by the petitioner and investigation was almost completed, and the trial is yet to be commenced and the prosecutor also not raised any objection and considering the change of circumstances, this Court is inclined to grant bail to the petitioner with certain conditions.

6. 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 (one surety must be a blood surety), for a like sum to the satisfaction of the learned Judicial Magistrate I, Villupuram and on further condition 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 daily at 10.30 a.m. and 5.00 p.m., for a period of five months and thereafter as and when required for interrogation and also appear before the trial Court on all hearing dates.

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;



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(d)the petitioner shall not abscond 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]*; and;

(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

28.04.2023

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To

1. The Judicial Magistrate-I, Villupuram.
2. Inspector of Police,
Villupuram Town Police Station, Villupuram.
3. The Superintendent of Prison,
District Jail, Vedampattu, Villupuram.
- 4.The Public Prosecutor,
High Court of Madras, Chennai.



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T.V. THAMILSELVI, J.

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