



Crl.O.P.No.9299 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2023

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

Crl.O.P.No.9299 of 2023

R.Udhayakumar

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Thally Police Station,
Krishnagiri District.

(Crime No.52 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner/accused on bail, in connection with the
Crime No.52 of 2023, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.N.Manokaran

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 03.03.2023, for the offences punishable under Section 120-B of IPC and Sections 3(1)(a) and 5(1)(a) of the Official Secrets Act, 1923, in Crime No.52 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 03.03.2023 at about 18.30 hours, on receipt of the secret information that one R.Udhayakumar / accused [A-1] has illegally shared the photograph about Army equipment to other country person, P.K.Mohana Sundaram, Sub Inspector of Police along with his team (i.e) Tr.Nagalingam, Gr.1PC- 1495 and Tr. Andiyappan Gr.1PC- 1523 went to the house of A1 and conducted an enquiry with him. On enquiry, he stated that he has studied B.E [EEE] at Hosur and was working as contract labour in LRDE / DRDO Bengaluru in 2017, during which time he took photographs of Army equipments including RADAR and restricted documents relating to Hardware technical specification of DRDO and Indian Army in his mobile phone and he sent the same to one Unknown person/A-2 who is a foreign national. Thereafter, the respondent police arrested A-1 and



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seized his mobile phone & Laptop under the cover of seizure mahazar in the presence of witnesses. Hence the case.

3. Learned counsel appearing for the petitioner submitted that this is the second application for bail filed by the petitioner and this Court taking into consideration the counter filed by the respondent and also considering the fact that there is likelihood of transferring the case to another investigation agency of the Central Government for further investigation and the investigation is at nascent stage, had dismissed the earlier bail application on 10.04.2023. He further submitted that subsequent to the dismissal of the bail application on 10.04.2023, the investigation has not been forwarded to any other agency. He further submitted that the fact remains that initially the petitioner was enquired by the Subsidiary Investigation Bureau and after thorough investigation, they handed over the petitioner to the respondent Police. He further submitted that if the allegations are so grave, the SIB would have taken up the investigation then and there and arrested the petitioner. He further submitted that the petitioner is a victim of circumstances and he was honey trapped and the petitioner, without understanding the consequences, has involved in this case. He further



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submitted that the wife of the petitioner is now in the advanced stage of pregnancy and there may not be any requirement of further custody of the petitioner. Hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (Crl. Side) appearing for respondent submitted that this Court taking into consideration the counter and finding that there is likelihood of transferring the case to another investigation agency of the Central Government for further investigation, had dismissed the earlier application on 10.04.2023. He further submitted that the respondent is taking steps to transfer the case to any Central Agency on receiving information from the forensic laboratory. Hence, he opposed for grant of bail to the petitioner.

5. In reply, the learned counsel for the petitioner submitted that the entire electronic gadgets of the petitioner have been seized by the respondent police and they are in the custody of the respondent and there is no possibility of the petitioner tampering with the electronic gadgets of the petitioner. He further submitted that after coming out on bail, the petitioner is also ready to file an affidavit of undertaking stating that he will join with the



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investigation and co-operate for investigation before the learned Magistrate concerned. Hence, he prayed for grant of bail to the petitioner.

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

7. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and the fact that the entire electronic gadgets of the petitioner have been seized by the respondent and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain condition.

8. 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 either father or mother of the petitioner) each for a like sum to the satisfaction of the **learned Judicial Magistrate, Denkanikottai** and on



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further conditions that:

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[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, everyday at 10.30 a.m and 5.30 p.m., until further orders and in the event of the investigation being transferred to some other agency, the petitioner shall appear before the concerned agency.

[c] the petitioner, shall, within one week of coming out on bail, shall surrender his passport before the learned Magistrate concerned and he shall also file an affidavit of undertaking before the learned Magistrate concerned, stating that he will join with the investigation and co-operate for the investigation. In the event of the petitioner not holding any passport, he shall file necessary affidavit stating so.

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

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

[f] On breach of any of the aforesaid conditions,



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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]***;

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

26.04.2023

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To

1. The Judicial Magistrate,
Denkanikottai.
2. The Inspector of Police,
Thally Police Station,
Krishnagiri District.
3. The Central Prison,
Salem.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

Vkr

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