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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.05.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.OP.No.9654 of 2023

Kumaresan ... Petitioner

Vs.

State rep. by
Inspector of Police,
E-3 Teynampet Police Station (L&O),
Chennai
Crime No.349 of 2022 ... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to release the petitioner on bail in PRC.No.15 of 2019 pending trial on the trial of XVIII Metropolitan Magistrate, Saidapet, Chennai in crime No.349 of 2018 on the file of the respondent police.

For Petitioner : Mr.K.P.S.Saravana Kumar

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor

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ORDER

The petitioner, who was arrested and remanded to judicial custody on 12.04.2023 for the offence punishable under Sections 147, 148, 341, 307, 302 & 120(b), 149 of IPC in PRC.No.15 of 2019 on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai in respect of Crime No.349 of 2018 on the file of the respondent police, seeks bail

2. It is the case of the prosecution that the petitioner was arrayed as an accused in crime No.349 of 2018 under Sections 147, 148, 341, 307, 302 & 120(b), 149 of IPC, which is pending for committal in PRC.No.15 of 2019 on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai. While so, the petitioner did not appear before the lower Court regularly. Hence, the lower Court has issued Non-Bailable Warrant against the petitioner on 20.04.2022. Thereafter, the petitioner was arrested and remanded to judicial custody on 12.04.2023.

3.The learned counsel appearing for the petitioner would submit that due to ill health, the petitioner could not appear before the

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trial court. Therefore, the non-appearance before the lower Court by the petitioner is neither wilful nor wanton. However, he would also submit that the petitioner is ready to abide any condition as imposed by this Court and seeks for grant of bail to the petitioner.

4.The learned Additional Public Prosecutor would submit due to non-appearance of the petitioner before the lower Court, the trial judge has issued Non-Bailable Warrant on 20.04.2022 against the petitioner and the petitioner was arrested and remanded to judicial custody on 12.04.2023, and if the bail is granted to the petitioner, it is very difficult to secure him. Hence, he vehemently objected for grant of bail to the petitioner.

5. It is seen that NBW was issued against the petitioner on 20.04.2022 and the same was executed on 12.04.2013. Now the case is pending before the Principal Sessions Court, Chennai. Considering the facts and circumstances of the case and also period of incarceration by the petitioner i.e. from 12.04.2023, this Court is inclined to grant bail to the petitioner.

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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, each for a like sum to the satisfaction of the learned XVIII Metropolitan Magistrate, Saidapet, 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 report before the trial court i.e. Principal Sessions Judge, Chennai daily at 10.30 a.m. and 05.30 p.m. until further orders.

[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 absconds, a fresh FIR can be registered under Section 229A IPC.

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G.K.ILANTHIRAIYAN, J.

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To

1.The Principal Sessions Court,
Chennai

2.The XVIII Metropolitan Magistrate,
Saidapet, Chennai

3.Inspector of Police,
E-3 Teynampet Police Station (L&O),
Chennai

4.Central Prison,
Puzhal, Chennai

5.The Public Prosecutor,
High Court of Madras,
Chennai

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