



CrI.OP.No.10444 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.05.2023

CORAM

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

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Elaya @ Elayakumar

... Petitioner

Vs.

The State of Tamil Nadu
Represented by the Inspector of Police,
K-7, ICF Police Station,
ICF, Chennai 600 038

... Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to release the petitioner on bail in SC.No.210 of 2016 on the file
of the XVIII Additional Sessions Judge at Chennai.

For Petitioner : Mr.R.Venkataraman

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on execution of NBW on 05.01.2023 in SC.No.210 of 2016 on the file of the XVIII Additional Sessions Judge at Chennai registered for offences under Sections 341, 147, 148 and 302 IPC r/w 149 of IPC on the file of the respondent Police, seeks bail

2. It is the case of the prosecution that the petitioner was an accused SC.No.210 of 2016 on the file of the XVIII Additional Sessions Judge at 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 05.01.2023. Thereafter, the petitioner was arrested and remanded to judicial custody on 17.03.2023.

3.The learned counsel appearing for the petitioner would submit that due to ill health, the petitioner could not appear before the trial court. Therefore, the non-appearance before the lower Court by the petitioner is neither wilful nor wanton. However, he would also submit



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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 05.01.2023 against the petitioner and the petitioner was arrested and remanded to judicial custody on 17.03.2023, 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 originally the petitioner was granted bail and subsequently, the respondent completed investigation and filed final report, which was taken cognizance in SC.No.210 of 2016. However, before the trial court, he was absent and NBW was issued against the petitioner on 05.01.2023 and the same was executed on 17.03.2023. Considering the facts and circumstances of the case, 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 Additional Sessions Judge at 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. XVIII Additional Sessions Court at 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 learned XVIII Additional Sessions Judge at Chennai

2. Inspector of Police,
K-7, ICF Police Station,
ICF, Chennai 600 038

3.Puzhal Prison,
Chennai

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

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