



CrI.O.P.No.11418 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.05.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

CrI.O.P.No.11418 of 2023

Noor Mohammed @ Noor

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
Olakkur Police Station,
Tindivanam District.

(Crime No.387 of 2017)

... Respondent

Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in P.R.C.No.15 of 2019, pending
committal on the file of the Judicial Magistrate No.I, Tindivanam.

For Petitioner : Mr.S.N. Arunkumar

For Respondent : Mr.S. Sugendran,
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 28.02.2023, pursuant to the non-bailable warrant issued on 25.02.2021, in P.R.C.No.15 of 2019, pending on the file of the Judicial Magistrate No.I, Tindivanam, in connection with Crime No.387 of 2017 registered for the alleged offence punishable under Section 395 of IPC, seeks bail.

2.Learned counsel for the petitioner submitted that the petitioner is an accused (A5) facing trial in P.R.C.No.15 of 2019, pending on the file of the Judicial Magistrate No.I, Tindivanam. He further submitted that the petitioner has all along been appearing before the trial Court on all hearing dates, while so, due to his illness, he was unable to appear before the trial Court on 25.02.2021, thereby, the trial Court has issued a non-bailable warrant of arrest against him and subsequently, the petitioner was arrested in another case registered in Crime No.18 of 2023, thereby, the petitioner was remanded to judicial custody through PT warrant on 28.02.2023. He also submitted that the petitioner has also been granted statutory bail under Section 167(2) of Cr.P.C. in Crime No.18 of 2023. He further submitted that the petitioner is ready to abide by any stringent conditions that may be



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imposed by this Court and also ready to file an affidavit of undertaking stating that he will cooperate for speedy disposal of the trial. Therefore, he prayed for grant of bail to the petitioner.

3.Learned Additional Public Prosecutor appearing for the respondent submitted that since the petitioner, who is an accused (A5) facing trial in P.R.C.No.15 of 2019 pending on the file of the Judicial Magistrate No.I, Tindivanam, has failed to appear before the Trial Court on 25.02.2021, a non-bailable warrant of arrest was issued against him and pursuant to which, he was remanded to judicial custody through PT warrant on 28.02.2023. He also submitted that it is the case of the year 2017, pending committal on the file of the learned Judicial Magistrate No.I, Tindivanam in P.R.C.No.15 of 2019 and there are five accused in this case and since, due to the absence of the accused one after another, the learned Magistrate is unable to commit the case to the Court of Sessions and even now, two other accused are still absconding and non-bailable warrants of arrests are pending against them. He further submitted that as far as this petitioner is concerned, 5 previous cases including four cases of similar nature are pending against him. Therefore, if bail is granted to the petitioner, there is every possibility of



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him to abscond once again and would stall the progress of trial. Hence, he opposed for grant of bail to the petitioner.

4.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and perused the entire materials available on record.

5.Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and also considering the period of incarceration undergone by the petitioner, 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**, each for a like sum to the satisfaction of the learned Judicial Magistrate-I, Tindivanam, 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



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Bank pass Book to ensure their identity;

[b] the petitioner shall appear before the learned trial Judge, on all working days at 10.30 a.m., until further orders;

[c] the petitioner, after coming out on bail, shall file an Affidavit of Undertaking to the effect that he will co-operate for speedy disposal of the trial;

[d] the petitioner shall not abscond during trial;

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

[f] 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]*;

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

7. Accordingly, the Criminal Original Petition stands allowed.

18.05.2023

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A.A.NAKKIRAN, J.

Sni/Hvk

To

- 1.The Judicial Magistrate No.I,
Tindivanam.
- 2.The Inspector of Police,
Olakkur Police Station,
Tindivanam District.
3. The Central Prison,
Puzhal.
4. The Public Prosecutor,
High Court of Madras.

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