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CrI.O.P.No.11717 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.11717 of 2023

Abdul Niyazi

... Petitioner

Vs.

The State

Represent by Inspector of Police,
Devanampattinam Police Station,
Cuddalore District.

(Crime No.53 of 2000)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner/4th accused on bail in connected with
PRC.No.2 of 2006 on the file of the learned Judicial Magistrate-III,
Cuddalore in Cr.No.53 of 2000 pending on the file of the respondent police.

For Petitioner : Mr.S.C.Vishwanth

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 13.04.2023, pursuant to the non-bailable warrant of arrest issued against him for the offences under Sections 147, 148, 341, 294(b), 324, 323, 506(ii) and 307 of IPC in PRC.No.2 of 2006, pending on the file of the learned Judicial Magistrate-III, Cuddalore seeks bail.

2. It is the case of the prosecution that pending committal in PRC.No.2 of 2006 on the file of the learned Judicial Magistrate-III, Cuddalore, the petitioner absconded. As such , Non Bailable Warrant was issued, pursuant to which, he was arrested on 13.04.2023.

3. Learned counsel for the petitioner would submit that the Non Bailable Warrant issued by the learned Judicial Magistrate-III, Cuddalore in PRC.No.2 of 2006 against the petitioner/accused and then he was remanded to judicial custody. He would further submit that in the mother case against 4 persons ended in acquittal. The main accused/A1 died, the petitioner has been falsely arrayed as A4.



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4 .Learned counsel for the petitioner would further submit that the petitioner is prepared to furnish adequate sureties and also prepared to abide by any stringent conditions that may be imposed by this Court and he is also ready to file an Affidavit of Undertaking stating that he will co-operate for speedy disposal of the trial and he would ensure that he will appear before the trial Court on all hearing dates without fail. Therefore, he prays for grant of bail to the petitioner.

5. Learned Additional Public Prosecutor appearing for the respondent would submit that due to non-appearance of the petitioner before the concerned court, Non Bailable Warrant was issued on 02.03.2006 against the petitioner and the petitioner was arrested and remanded to judicial custody from 13.04.2023. He also submit that because of his absence, the petitioner's case was split up and separate trial was proceeded against other accused persons. He would also state that if the petitioner may be released on bail, he may abscond and tamper the evidence, it is very difficult to secure him. He also submit that the petitioner's earlier bail petition was dismissed by this Court vide order dated 05.05.2023 in Crl.OP.No.10415 of 2023. Hence, he would vehemently oppose to grant bail to the petitioner.



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6. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor 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 also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

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**, each for a like sum to the satisfaction of the **learned Judicial Magistrate-III, Cuddalore** 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;



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[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.

Vv/drl

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To

- 1.The Judicial Magistrate-III, Cuddalore
2. The Inspector of Police,
Devanampattinam Police Station,
Cuddalore District.
3. The Superintendent,
Central Prison, Cuddalore.
4. The Public Prosecutor,
High Court of Madras.



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A.A.NAKKIRAN, J.

Vv/drl

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