



Crl.O.P.No.11835 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2023

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

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Shanmugam @ Balaji

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
K-1 Sembium Police Station,
Chennai.

(Crime No.80 of 2018).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,

pleased to enlarge the petitioner on bail in S.C.No.90 of 2020 pending on the

file of the learned XV Additional Sessions Judge, Chennai, in Crime No.80

of 2018 on the file of the respondent Police.

For Petitioner : Mr.G.Sonai Bothi Rajan

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 28.04.2023, pursuant to the non-bailable warrant of arrest issued against him on 02.02.2021, in S.C.No.90 of 2020 pending on the file of the learned XV Additional Sessions Judge, Chennai, in connection with Crime No.80 of 2018, for the offence punishable under Sections 147, 148, 341, 294(b), 323, 324, 307 and 506(2) r/w.149 of IPC, seeks bail.

2. Learned counsel for the petitioner submitted that the petitioner is an accused (A2) facing trial in S.C.No.90 of 2020, pending on the file of the learned XV Additional Sessions Judge, Chennai. He further submitted that the petitioner has all along been regularly appearing before the Court on all hearing dates, while so, he married one Lavanya, against the wishes of both their parents and on fearing danger from their relatives, they had gone to Villupuram. He further submitted that since the petitioner was residing at Villupuram along with his wife, he was unable to appear before the trial Court on 02.02.2021, thereby, the trial Court has issued a Non Bailable Warrant of arrest against him. Later, since the petitioner's wife had given birth to a child in the month of October-2022, the petitioner had returned



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back to his native, during which, the respondent had arrested the petitioner from his residence on 28.04.2023, pursuant to the non-bailable warrant pending against him. He further submitted that the petitioner has no bad antecedents and he is ready to abide by any stringent conditions that may be imposed by this Court, therefore, he prays for grant of bail to the petitioner.

3. Learned Government Advocate (Crl.Side) appearing for the respondent submitted that since the petitioner, who is an accused (A2) facing trial in S.C.No.90 of 2020, pending on the file of the learned XV Additional Sessions Judge, Chennai, has failed to appear before the trial Court on 02.02.2021, a Non-Bailable Warrant was issued against him and pursuant to the same, he was arrested on 28.04.2023. He further submitted that there are five accused in this case and the fifth accused is no more and also submitted that the case now stands posted on 28.07.2023 for appearance of the accused. Therefore, he opposed for grant of bail to the petitioner.

4. In reply, the learned counsel for the petitioner is also ready to file an Affidavit of Undertaking stating that he will co-operate for speedy disposal of the trial and also submitted that the petitioner undertakes that he



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will appear before the trial Court on all hearing dates without fail. Hence he prayed for grant of bail to the petitioner.

5. 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.

6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and taking note of the undertaking given by the petitioner and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

7. 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** (out of which, one surety shall be the wife of the petitioner), each for a like sum to the satisfaction of the **learned V Metropolitan Magistrate, Egmore, Chennai**, and on 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 appear before the learned XV Additional Sessions Judge, Chennai, on all working days at 10.30 a.m., for two weeks and thereafter, on the dates fixed by the trial Judge 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]*;



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

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To
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1. The V Metropolitan Magistrate,
Egmore, Chennai.
2. The XV Additional Sessions Judge,
Chennai.
3. The Inspector of Police,
K-1 Sembium Police Station,
Chennai.
4. The Central Prison,
Puzhal, Chennai.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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