



Crl.O.P.No.15546 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.07.2023

CORAM

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

Crl.O.P.No.15546 of 2023

A.Emmanuel Monday

... Petitioner

/versus/

The State represented by
The Inspector of Police,
North Police Station,
Tiruppur.

(Crime No.1535 of 2022)

... Respondent

PRAYER : Criminal Original Petition filed under Section 439 of Criminal Procedure Code, pleased to enlarge the petitioner on bail pending trial in C.C.No.119 of 2023, on the file of the Judicial Magistrate No.I, Tiruppur.

For Petitioner : Mr.Y.Venkatesan

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)



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CrI.O.P.No.15546 of 2023

ORDER

The petitioner, who was arrested and remanded to judicial custody on 13.12.2022 for the offence punishable under Sections 14 and 17 (1) of the Foreigners Act, in Crime No.1535 of 2022, pending trial in C.C.No.119 of 2023, on the file of the Judicial Magistrate No.I, Tiruppur, seeks bail.

2. The case of the prosecution is that the petitioner who is a Nigerian national had come to India and over stayed in Tiruppur without proper Visa, thereby committed offence. Hence the case.

3. The learned counsel for the petitioner would submit that the petitioner is a Textile Merchant in Nigeria and he came to Tiruppur for purchase of clothes and readymade dresses. Due to Covid-19 pandemic, he was unable to return back to his country. He would also submit that the petitioner is in custody from 13.12.2022 and he is suffering incarceration for more than seven months. He would further submit that



Crl.O.P.No.15546 of 2023

investigation in this case has been completed and the case has also been taken up for trial in C.C.No.119 of 2023 pending on the file of the Judicial Magistrate Court No.I, Tiruppur. He would also submit that the petitioner has no other criminal case pending against him and he has to come out of the jail and engage a counsel to conduct his case, thereby, he prayed for grant of bail to the petitioner.

4. The learned Government Advocate (Criminal Side) appearing for the respondent police would submit that the petitioner who is a Nigerian national had come to India through proper channel, however his Visa expired, thereby overstayed in Tiruppur and committed offence. He would further submit that if the petitioner is granted bail, there is every possibility of abscondance. Hence, he opposed for grant of bail to the petitioner.

5. In reply, the learned counsel for the petitioner has submitted that the petitioner is ready to furnish local sureties and the petitioner is also ready to stay at the Special Camp for Foreigners at Trichy and prayed for grant of bail to the petitioner.



Crl.O.P.No.15546 of 2023

WEB COPY

6. Heard the learned Counsel for the Petitioner and the learned Government Advocate (Crl.Side) for the respondent Police and perused the materials available on record.

7. Taking into consideration the above facts and circumstances of the case, the submissions made by the learned counsel on either side and also taking note of the fact that the petitioner has come forward to furnish local sureties and he is also ready to stay at the Special Camp for Foreigners at Trichy, 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.10,000/- (Rupees Ten Thousand only)** with **two local sureties**, each for a like sum to the satisfaction of the **learned Judicial Magistrate No.I, Tiruppur**, and on further conditions that:

[a] the sureties shall affix their photographs



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CrI.O.P.No.15546 of 2023

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 be lodged at the Special Camp for Foreigners at Trichy;

[c] the petitioner shall not abscond during trial;

[d] the petitioner shall not tamper with evidence or witness during 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]***;

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

20.07.2023

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Crl.O.P.No.15546 of 2023

A.D.JAGADISH CHANDIRA, J.

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To

1. The learned Judicial Magistrate No.I, Tiruppur
- 2.The Inspector of Police,
North Police Station,
Tiruppur.
3. The Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.15546 of 2023

20.07.2023