



Crl.O.P.No.17896 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2023

CORAM

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

Crl.O.P.No.17896 of 2023

Arun @ Arun Kumar

... Petitioner

Vs.

The State Rep by,
The Inspector of Police,
Manimangalam Police Station,
Chengalpattu District.

(Crime No.280 of 2013).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to release the petitioner on bail pending Trial in SC.No.114 of 2014
on the file of the learned Additional Sessions Judge, Chengalpattu.

For Petitioner : Mr.G.Mageshkumar

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



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ORDER

The petitioner, who was remanded to judicial custody on 23.08.2022, pursuant to the non-bailable warrant issued against him on 29.04.2019, in SC.No.114 of 2014, pending on the file of the Additional District and Sessions Judge, Chengalpattu, in connection with Crime No.280 of 2013 registered for the alleged offence punishable under Sections 294(b), 341, 342, 302 of IPC r/w Section 34 of IPC, seeks bail.

2. The learned counsel appearing for the petitioner submitted that this is the third application for bail filed by the petitioner before this Court and this Court had dismissed the earlier bail application in Crl.OP.No.12738 of 2023 vide order dated 14.06.2023. He further submitted that at the time of dismissal of the earlier applications certain important aspects were not put forth by the petitioner and thereby, the bail petition was not considered. He would further submit that the petitioner was earlier arrested in Crime No.280 of 2013 on 28.08.2013 and subsequently the petitioner along with other accused have been granted bail by this Court in Crl.OP.No.27701 of 2013 dated 28.10.2013 with certain conditions. The petitioner had been regularly



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complying with the conditions which was later relaxed and thereafter the final report was filed and the case was taken up for Trial in SC.No.114 of 2014 and the same is pending on the file of the Additional Sessions Judge, Chengalpattu. The petitioner had been regularly appearing before the Trial Court. Subsequently, he was falsely implicated in the case in Crime No.67 of 2019 and he was arrested on 09.05.2019. During such time, the petitioner sustained fracture and later he was released on bail on 03.06.2019 and thereafter he was taking treatment at Vihaa, Multi Speciality Hospital, Anna Nagar East, Chennai, for his fracture and he undergone surgery on 10.07.2019 and he was fixed with Interlocking IM Nailing and he underwent continuous treatment till 29.07.2019, and thereby, the petitioner was unable to appear before the Trial Court on 29.04.2019 resulting in the Trial Court issuing Nonailable Warrant of arrest on the same day. He would further submit that the petitioner was later detained under Act 14 of 1982 and he had filed HCP.No.344 of 2020 and the same was allowed on 31.08.2020 and the detention order was set aside. While the petitioner was in custody under preventive detention, the respondent police had not take any steps to produce the petitioner on P.T Warrant before the Trial Court. Later the petitioner was released on bail during Covid Pandemic. Subsequently, the petitioner



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was also implicated in yet another case in Crime No.71 of 2021 and he was arrested and later, he was released on bail by the learned Principal District Judge, Chengalpattu in Crl.MP.No.3366 of 2021 dated 12.07.2021. Even when he was in judicial custody in connection with Cr.No.71 of 2021 no steps were taken to produce the petitioner on P.T. warrant. The petitioner fearing that he might be implicated in several other cases did not appear before the Trial Court and later he voluntarily surrendered before the Trial Court on 23.08.2022 whereas, the Trial Judge without following the procedures and without the bail already granted by this Court being cancelled and without assigning any reasons, by a cryptic order remanded the petitioner to the judicial custody on the same day. He further submitted that the earlier bail granted by this Court in Crl.OP.No.27701 of 2013 dated 28.10.2013 was not cancelled and thereby the remand of the petitioner is in violation of the procedures. He would further submit that the law is well settled that in a case where the accused is on bail in non bailable offence, and he did not appear on hearing date and non-bailable warrant is issued, on appearance of the accused or on his production by police through P.T. Warrant, opportunity should be given to the accused to explain his non-appearance and decide as to whether to let him off by recalling the warrant or



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to cancel the bail by recording the reasons and the accused cannot be straight away remanded to the judicial custody as a P.T. warrant can never be converted into a regular warrant in a case where the accused person is already on bail.

3. In support of his contention, the learned counsel for the petitioner relied on the judgment of the Division Bench of this Hon'ble Court in Noorudeen @ Rafi @ Ismail Vs. State in Crl.A.No.226 of 2022 dated 11.08.2022.

4. The respondent has filed a detailed counter.

5. The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner is a habitual offender involved in offences of heinous and grave in nature. He would further submit that the petitioner has got 18 previous cases pending against him and since the petitioner did not appear before the Court on 29.04.2019, the Trial Court had issued Nonailable Warrant of arrest. He further submit that the petitioner is in the habit of absconding and that on an earlier occasion Non



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Bailable Warrant was issued against him on 28.11.2017 and the same was recalled on 19.03.2019. He vehemently opposes for the grant of bail. However, he fairly conceded that the bail granted to the petitioner in CrI.OP.27701 of 2013 dated 28.10.2013 has not been cancelled so far.

6. Heard the learned Counsel for the petitioner and the learned Government Advocate (CrI.Side) for the respondent Police and perused the materials available on record. The AD Extract dated 28.03.2022 regarding the remand order is produced.

7. The Trial Court had issued Non Bailable Warrant of arrest on 29.04.2019. On perusal of records shows that subsequently the petitioner has been arrested in several other cases and he was also detained under the Act 14. During such time, the respondent police has not taken any steps to produce the petitioner on P.T. Warrant before the concerned Court. It is the case of the petitioner that due to fracture sustained by him he underwent a surgery, and thereby he was unable to appear before the Court on 29.04.2019 and the Trial Judge had issued Non Bailable Warrant and that he had voluntarily surrendered on 23.08.2022 and the Trial Court had without the



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earlier bail being cancelled and without assigning any reason had remanded him by a cryptic order. Perusal of the remand report shows that no reasons has been stated by the Trial Judge to remand the petitioner and the earlier bail order granted by this Court has not been canceled so far. This Court in CrI.A.No.226 of 2022 Noorudeen @ Rafi @ Ismail Vs State dated 26.08.2022 has held as follows :

“17. The law is well settled that in case where the accused is on bail in non-bailable offence and did not appear on hearing date and non bailable warrant is issued, on appearance of the accused or on his production by police through PT warrant, opportunity should be given to the accused to explain his non appearance and decide as to whether to let him off by recalling the warrant or to cancel the bail by recording the reasons and he cannot be straightaway remanded to judicial custody as a PT warrant can never be converted into a regular warrant in a case where the accused person is already on bail”.

8. This Court finds that the earlier order of bail has not been canceled and no reasons has been stated by the Trial Judge for remanding the



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petitioner and in view of the above, this Court is inclined to grant bail to the petitioner with certain condition.

9. 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**, (one surety must be a blood-related surety) for a like sum to the satisfaction of the **learned Judicial Magistrate No.II, Tambaram**, 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 the respondent police every Saturday at 7.30 p.m until further orders. The petitioner shall also directed to appear before the Trial Court on all working days at 10.30 a.m, for a period of two weeks and thereafter on the date fixed the learned Trial Judge.

[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;



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[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.

24.08.2023

drl

To

1. The Judicial Magistrate No.II,
Tambaram.
2. The Inspector of Police,
Manimangalam Police Station,
Chengalpattu District.
3. The Superintendent,
Central Prison, Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.

drl

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