



Criminal Original Petition No.19908 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.19908 of 2023

Theerthagiri
S/o.Sekar

...Petitioner

Vs

The State represented by
The Inspector of Police,
Singarapettai Police Station,
Krishnagiri District.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to set aside the order passed by learned Judicial Magistrate, Uthangarai, Krishnagiri District, in Crl.M.P.No.3769 of 2023 in Crime No.160 of 2023 dated 14.08.2023.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

ORDER



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This Criminal Original Petition has been filed challenging the order passed by the Court below dismissing the petition filed by the petitioner u/s.167(2) Cr.P.C. seeking for statutory bail.

2. Heard Mr.E.Kannadasan, learned counsel for petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for respondent.

3. The petitioner was arrested by the respondent police in the course of investigation in Crime No.160 of 2023 and the petitioner was remanded to judicial custody on 12.05.2023. The First Information Report was registered for offence u/s.436 IPC. The final report was not filed within a period of 90 days. Hence, the petitioner filed a petition u/s.167(2) Cr.P.C. seeking for statutory bail and the same came to be dismissed by the Court below. Aggrieved by the same, the present petition has been filed before this Court.

4. On carefully going through the order passed by the Court below, it



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is seen that the Court below has taken into consideration the earlier order passed by the learned Principal Sessions Judge, Krishnagiri, wherein the petitioner was enlarged on bail by order dated 21.07.2023 by imposing a condition that the petitioner should deposit a sum of Rs.50,000/-. This condition was not able to be complied with by the petitioner and hence, the petitioner was not able to come out on bail. The Court below, therefore, came to a conclusion that the petitioner was granted bail earlier and the petitioner did not comply with the condition and therefore, the petitioner is not entitled for statutory bail. In the considered view of this Court, the reason assigned by the Court below is unsustainable in law.

5. This Court had an occasion to deal with the very same issue in ***Umadevi v. State [2019 (1) LW (Crl.)387]***. That was also a case where bail was granted by imposing conditions and the accused person was not able to come out on bail due to non-compliance of the condition. This Court held that the earlier bail order and the non-compliance of the condition cannot be put against the accused person since on the expiry of the statutory period,



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the accused person gets an indefeasible right to be enlarged on bail. Useful reference can also be made to the judgment of the Apex Court in ***Saravanan v. State [2020 (4) MLJ (Crl.) 413]***.

6. In the light of the above discussion, the order passed by learned Judicial Magistrate, Uthangarai, Krishnagiri District, in CrI.M.P.No.3769 of 2023 in Crime No.160 of 2023 is hereby set aside.

In the result, this Criminal Original Petition is allowed and the petitioner shall be enlarged on bail subject to the following conditions:

- (i) the petitioner shall execute a bond for a sum of Rs.10,000/- [Rupees Ten Thousand only] with two sureties for the like sum to the satisfaction of the Judicial Magistrate, Uthangarai;
- (ii) the petitioner shall report before the respondent police twice a week i.e. on Monday and Friday at 06.30 p.m. for a period of four weeks and thereafter, as and when required.
- (iii) on breach of any of the aforesaid conditions, learned Magistrate/Trial



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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]*.

(iv)If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

01.09.2023

Note: Issue today

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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To

1.The Judicial Magistrate,
Uthangarai, Krishnagiri District.

2.The Inspector of Police,
Singarapettai Police Station,
Krishnagiri District.

3.The Public Prosecutor,
High Court, Madras.

N.ANAND VENKATESH, J



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