



Crl.O.P.No. 26340 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2023

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.O.P.No.26340 of 2023

Munish Saravanan

... Petitioner

Vs.

State rep. by
The Inspector of Police,
F-3, Nungambakkam Police Station
Chennai.
(Crime No.196 of 2023)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.196 of 2023 pending on
the file of the respondent Police.

For Petitioner : Mr. P.Narayana Prasadh

For Respondent : Mr.R.Kishore Kumar
Government Advocate (Crl.Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 25.09.2023, registered by the respondent Police for the offences under Section 14 of Foreigners Act, 1946 in Crime No.196 of 2023, seeks bail.

2. It is stated that the petitioner is citizen of Malaysia and he was staying in this country even beyond the period for which he was permitted to stay. He continued to stay without any proper papers. It was under those circumstances that he had been taken into custody on 25.09.2023.

3. Section 3(1) (2) (f) is as follows:-

“3. Power to make orders.-(1) The Central Government may by order make provision, either generally or with respect to all foreigners or with respect to any particular foreigner or any prescribed class or description of foreigner, for prohibiting, regulating or restricting the entry of



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foreigners into [India] or their departure therefrom or their presence or continued presence therein.

(2). In particular and without prejudice to the generality of the foregoing power, orders made under this Section may provide that the foreigner-

(f) shall enter into a bond with or without sureties for the due observance of, or as an alternative to the enforcement of, any or all prescribed or specified restrictions or conditions.”

4. It is also pointed out by the learned Government Advocate (Crl. Side) appearing for the respondent that the object of the Act is that the petitioner, shall stand trial. There is no other option for him. The only other option is for the Government to take a policy decision to deport him. Now an offence had been registered. The provision aforementioned in sub-clause (f), provides a small window for the petitioner to enter into a bond either with or without sureties which would indicate that he could be released from



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custody on furnishing sufficient bond.

5. The learned counsel for the petitioner had filed a memo stating that the blood brother of the petitioner Suren is ready and willing to stand as a surety. It is stated that the mother had died and the father is physically challenged and does not have any document to enable him to come over to India.

6. In view of all these factors and particularly taken into consideration the statement made by the learned Government Advocate (CrI.Side) that the petitioner shall be directed to stand trial, 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 condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties **out of which, one surety must be a blood related surety/ brother of the petitioner, namely, Suren**, each for a like sum to the satisfaction of the learned XIV 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 report before the respondent police, everyday at 10.30 a.m., until further orders;

[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.

[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 absconds, a fresh FIR can be registered under Section 229A IPC.

24.11.2023

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C.V.KARTHIKEYAN, J.

vsg

To

1. XIV Metropolitan Magistrate, Egmore, Chennai
2. The Inspector of Police,
F-3, Nungambakkam Police Station
Chennai.
3. The Public Prosecutor,
High Court of Madras.
4. Jail Superintendent
Central Prison
Puzhal, Chennai.

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