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Crl.OP.No.27781 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Criminal Original Petition No.27781 of 2023

Afam Pascal

... Petitioner

Versus

State represented by
The Inspector of Police
North Police Station,
Tiruppur City.
(Crime No.383 of 2023)

... Respondent

Criminal Original Petition is filed under Section 439 of Cr.P.C to enlarge the petitioner on bail pending trial in C.C.No.479 of 2023 on the file of the Judicial Magistrate No.I, Tiruppur.

For Petitioner : Mr. K. Suresh Kumar

For Respondents : Mr. S.Udayakumar
Government Advocate (crl.side)



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ORDER

The petitioner, who was arrested and remanded to Judicial custody on 14.03.2023, for the alleged offences under Sections 14, 7(1), 14(1) of Foreigners Act 1946 in Crime No.383 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner, who is Nigerian National, has over stayed in India without valid permit. Hence, the case.

3. This is the second petition for bail. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he came to India with valid Visa. However, due to Covid-19, he was unable to renew his Visa and the Visa had lapsed . Hence, he was arrested on 14.03.2023 and he is languishing in jail from 14.03.2023. He would further submit that when the earlier bail petition was listed on 20.06.2023, the learned Government Advocate (Crl. side) submitted that the trial would be completed within a period of 3 months and thereby, this Court dismissed the bail petition, with a direction to the learned Trial Judge, to complete the trial within a period of 3 months from the date of receipt of a copy of the order. However, despite the



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lapse of more than 3 months, the Trial has not been commenced. He would also submit that the petitioner is ready to abide any stringent condition that may be imposed on him and ready to furnish local sureties. He is also ready to co-operate for speedy disposal of the case. He would further submit that the co-accused in this case viz., John Paul Nnaemeka has already been granted bail by this Court by an order dated 04.09.2023 in Crl.O.P.No.19626 of 2023 and thereby, he would seek for bail.

4. The learned Government Advocate (crl.side) would submit that the petitioner is Nigerian National. During the year 2018, he had come to India with valid passport. However, he overstayed in India in violation of passport rules and if bail is granted to the petitioner, there is every possibility of the petitioner absconding. He would further submit that now, the case is taken on file in C.C.No.479 of 2023 by the learned Judicial Magistrate No.I, Tiruppur and now the case stands posted for examination of L.W.1 to L.W.5 on 14.12.2023.

5. Heard both sides and perused the materials available on records.



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6. This Court, on 20.06.2023, while dismissing the earlier petitions for bail in Crl.O.P.No.13347 of 2023, had directed the Judicial Magistrate No.I, Tiruppur to number the final report and take the case on file and complete the trial within a period of 3 months from the date of receipt of a copy of this order. However, it has not been done so far. The petitioner cannot be inordinately kept in jail without being any progress in trial. Further, the co-accused in this case has been granted bail in Crl.O.P.No.19626 of 2023 on 04.09.2023.

7. Taking into consideration the period of incarceration undergone by the petitioner and all other factors, 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 condition **to execute a bond for a sum of Rs.15,000/- (Rupees fifteen 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 petitioner and 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.



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[b] the petitioner shall appear before the learned Judicial Magistrate No.I, Tiruppur on all working days 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.

12.12.2023

Index : Yes / No

Speaking / Non-speaking

Neutral Citation : Yes / No

mrp

To

1. The Judicial Magistrate No.I,
Tiruppur.

2. The Inspector of Police
North Police Station,
Tiruppur City.

3. Central Prison, Puzhal, Chennai.



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A.D.JAGADISH CHANDIRA, J.

mrp

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