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Crl.O.P.No. 29102 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.12.2023

CORAM

THE HON'BLE MR. JUSTICE P.DHANABAL

Crl.O.P.No.29102 of 2023

Mohamed Irfan

... Petitioner

Vs.

The State rep by
The Inspector of Police,
Korattur Police Station,
Tiruvallur District.
Crime No.540 of 2017.

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner / Accused on bail in S.C.No.117 of 2017 on
the file of the II Additional District and Sessions Court, Poonamalle.

For Petitioner : Mr.T.I.Ramanathan

For Respondent : Ms.G.V.Kasthuri
Additional Public Prosecutor.

ORDER

The petitioner, who was arrested and remanded to judicial
custody, pursuant to the non-bailable warrant of arrest issued against him in



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S.C.No.117 of 2017, pending on the file of the learned II Additional District and Sessions Court, Poonamalle, seeks bail.

2. Learned counsel for the petitioner submitted that the petitioner is an accused facing trial in S.C.No.117 of 2017, for the alleged offence under Sections 302 and 201 of IPC, pending on the file of the learned II Additional District and Sessions Court, Poonamalle. He further submitted that the petitioner has all along been regularly appearing before the trial Court on all hearing dates, while so, non communication about the case hearing from his earlier counsel, he was unable to appear before the trial Court on 02.08.2019, thereby, the trial Court has issued a Non Bailable Warrant of arrest against him and pursuant to which, he was arrested on 26.06.2023.

3. He further submitted that the petitioner is an innocent person and he is prepared to furnish adequate sureties and also prepared to abide by any stringent conditions that may be imposed by this Court. He also submitted that the petitioner would ensure that he will appear before the trial Court on all hearing dates without fail. Therefore, he prays for grant of bail to the petitioner.

4. Learned Additional Public Prosecutor appearing for the respondent submitted that since the petitioner, who is an accused facing trial



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in S.C.No.117 of 2017, pending on the file of the learned II Additional District and Sessions Court, Poonamalle, has failed to appear before the trial Court on 02.08.2019, a Non-Bailable Warrant was issued against him and pursuant to the same, he was arrested on 26.06.2023. She further submitted that the trial is still pending and some of the witnesses were only examined and hence, she opposed to grant bail to the petitioner.

5. Heard both side and perused the materials available on record.

6. Considering the rival submissions made on either side and taking into consideration the period of incarceration undergone by the petitioner and considering that the case is posted for trial, I am inclined to grant bail to the petitioner, subject to the following conditions:

[a] 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 each for a like sum to the satisfaction of the learned II Additional District and Sessions Court, Poonamalle and on further conditions that:

[b] the petitioner shall report before the II Additional District and Sessions Court, Poonamalle, daily at 10.00 a.m., until further orders.

[c] the petitioner shall not commit any offences of similar nature.

[d] the petitioner shall not abscond either during investigation or trial.



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[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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].

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

28.12.2023

vkx/apd

To

1. The II Additional District and Sessions Court,
Poonamalle.
2. The Inspector of Police,
Korattur Police Station,
Tiruvallur District.
3. The Central Prison, Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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P.DHANABAL, J.

vkx/apd

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