



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2023

PRESENT

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

CRL.O.P (MD) No.217 of 2023

WEB COPY

S.Azees @ Abdul Azees

...Petitioner/Accused Rank No.1

-vs-

The State represented by
The Inspector of Police,
Shenkottai Police Station,
Tenkasi District.

(in Cr.No.304 of 2022)

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of his arrest by the respondent Police with respect to Cr.No.304 of 2022.

For Petitioner

: Mr.B.Ramanathan, Advocate

For Respondent

: Mr.P.Kottai Chamy

Government Advocate (Crl.side)

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Section 229A of IPC in Crime No.304 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, Chandrakalavathi, who is working as Head Clerk in the office of the learned District Munsif cum Judicial Magistrate, Shengottai, is that the petitioner is the accused in Cr.No.17 of 2017 and was enlarged on bail with certain conditions. However, without complying with the conditions imposed while granting bail, the petitioner and other accused, without obtaining necessary permission, had fled away to foreign countries and that therefore, non-bailable warrant was also issued against them. Hence, the complaint.

3.The learned Counsel for the petitioner would submit that the petitioner is one of the accused in Cr.No.17 of 2017 registered by the respondent Police for the offence punishable under Sections 147 and 341 of IPC and Section 3 of TNPPDL Act. The petitioner was granted bail by the learned District Munsif cum Judicial Magistrate. Tirunelveli, on 11.07.2017. Later, the petitioner was informed that his name would be dropped in the FIR and believing the



complying with condition. Later, the petitioner came to court at his name was also included and a final report was filed and based on the complaint given by the Head Clerk of the District Court that the petitioner did not appear, the case came to be registered. He would submit that the petitioner is ready to abide by any stringent conditions, that may be imposed on him and he is also ready to appear before the committal Court till the case is committed to the trial Court.

4.The learned Government Advocate (crl.side) would submit that the petitioner is an accused in Cr.No.17 of 2017 registered by the respondent Police and after obtaining bail, the petitioner did not comply with the condition and did not appear before the Court and thereby, the learned Magistrate is unable to commit the case to the Court of Sessions. He would further submit that the petitioner absconded and he had gone abroad and now only he has returned back to India and he would object for grant of bail.

5.At this juncture, the learned Counsel for the petitioner would submit that the petitioner undertakes to deposit his passport before the Court concerned and he has also undertakes to regularly appear before the committal Court.

6.Taking into consideration the facts and submissions and also on perusing the materials available on record including the F.I.R., this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned District Munsif cum Judicial Magistrate, Shengottai, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition 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.

[b] at the time of furnishing sureties, the petitioner shall deposit his passport before the learned District Munsif cum Judicial Magistrate, Shengottai.

[c] the petitioner shall report before the the learned District cum Judicial Magistrate, Shengottai, on all working days for a period of two weeks and thereafter on the dates fixed by the

<https://www.judiciary.gov.in/judicial-magistrate>



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

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

[f] 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]**.

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

sd/-

05/01/2023

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CMR

TO

1.THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE, SHENGOTTAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

3 THE INSPECTOR OF POLICE,
SHENKOTTAI POLICE STATION,
TENKASI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.RAMANATHAN B , Advocate (SR-309[I] dated 06/01/2023)

ORDER

IN

CRL OP(MD) No.217 of 2023

Date :05/01/2023

RK/VR/SAR-1 (23/01/2023) 3P/6C