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CRL OP(MD).

23



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 25/01/2023
PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD) . No.1499 of 2023

Rajesh

... Petitioner/Accused No.2

Vs

The State rep.by
The Inspector of Police,
Colachel Police Station,
Colachel,
Kanniyakumari District.
(Crime No.269/2014).

... Respondent/Complainant

For Petitioner : M/s.PRAGALATHAN N,
Advocate.

For Respondent : Mr.T.SENTHIL KUMAR,
Additional Public Prosecutor

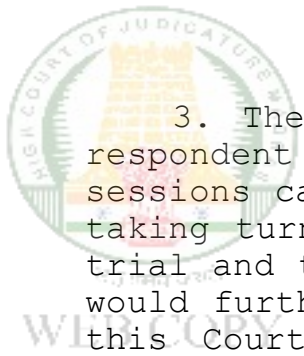
PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :- For Bail in Crime no.269/2014 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A2, who was arrested and remanded to judicial custody on 04.01.2023 pursuant to the execution of Non Bailable Warrant in Crime No.269 of 2014 for the offences under sections 294(b),341,307,307 r/w.34,307 r/w.109 of IPC seeks bail.

2. The learned counsel appearing for the petitioner would submit that the petitioner as A2 along with other accused in Crime No.269 of 2014 for the offences under Sections 294(b),341,307,307 r/w.34,307 r/w.109 of IPC is facing trial in S.C. No.91 of 2017 on the file of the learned Sub Judge, Eraniel. He would further submit that the petitioner was regularly appearing before the Court and due to his illness he was unable to appear before the Court on 08.11.2022, thereby Non Bailable Warrant of arrest came to be issued and now he is ready to cooperate with the trial, hence he seeks bail.



3. The learned Additional Public Prosecutor appearing as respondent would submit that the case is of the year 2014 and the sessions case is of the year 2017 and the accused persons have been taking turns one after another and they have been protracting the trial and thereby the court is unable to proceed with the trial. He would further submit that two other accused have surrendered before this Court and now trial commenced and two witnesses have been examined on 23.01.2023 and the case stand posted for examination of LW.3 to L.W.5 on 31.01.2023 thereby he opposed for grant of bail.

4. Heard. Perused the materials available on record including the First Information Report.

5. Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the period of incarceration, this court is 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(of which one shall be the blood related surety) each for a like sum to the satisfaction of the learned Assistant Sessions Judge(Sub Court) Eraniel, Kanniyakumari District and on further conditions that:

[b] 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.

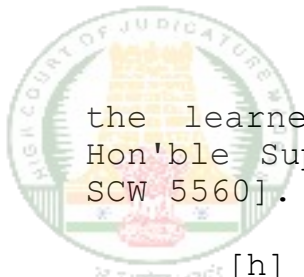
[c] the petitioner shall report before the learned Assistant Sessions Judge(Sub Court) Eraniel, Kanniyakumari District on all working days at 10.30 am., for a period of two weeks and thereafter on the date fixed by the learned Sessions Judge. Further it is made clear that if the petitioner fails to appear before the Court or protract the trial, the learned Sessions Judge is directed to proceed in accordance with law to cancel the bail.

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

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

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

[g] On breach of any of the aforesaid conditions, the learned Judicial 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].

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

sd/-

25/01/2023

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25/01/2023

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

AAV

TO

1 THE ASSISTANT SESSIONS JUDGE,
(SUB-COURT), ERANIAL, KANNIYAKUMARI DISTRICT.

2 THE OFFICER INCHARGE,
DISTRICT JAIL, NAGERCOIL,
KANNIYAKUMARI DISTRICT.

3 THE INSPECTOR OF POLICE,
COLACHEL POLICE STATION,
COLACHEL,
KANNIYAKUMARI DISTRICT.

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

+1. CC to M/S.PRAGALATHAN N Advocate SR.No.1160

ORDER

IN

CRL OP(MD) No.1499 of 2023

Date :25/01/2023

SA/VR/SAR. /25.01.2023/3P/6C