



CRL OP(MD). No.19071 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 20/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.19071 of 2023

M.Mohammed Moitheen

... Petitioner / Accused

Vs

The State rep by
The Inspector of Police,
Kadayam Police Station,
Tirunelveli District.
(Crime No.147/2017.)

... Respondent / Complainant

For Petitioner : Mr.R.Mathava Selvam,
Advocate.

For Respondent : Mr.R.M.S.Sethuraman,
Additional Public Prosecutor

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

PRAYER :- For Bail in Crime No.147/2023 on the file of the Respondent Police.



CRL OP(MD). No.19071 of 2023

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ORDER : The Court made the following order :-

The petitioner/accused, who was arrested and remanded to judicial custody on 11.10.2023 for the alleged offence punishable under Sections 294(b), 506(ii) of IPC and Section 3 of TNPPDL Act in Crime No.147 of 2017, on the file of the respondent police, seeks bail.

2. Earlier the petitioner was arrested and released on bail. Thereafter the petitioner did not appear before the trial Court , hence Non Bailable Warrant was issued. The petitioner was arrested on execution of Non Bailable Warrant on 11.10.2023.

3.The learned counsel for the petitioner would submit that the petitioner is regularly appearing before the trial Court on all hearing dates and due to his ill health he was unable to appear before the trial Court, due to which Non Bailable Warrant came to be issued and the petitioner was remanded to custody pursuant to the execution of Non Bailable Warrant on 11.10.2023. He would further submit that the petitioner is a cancer patient and he is still taking treatment in TVMCH, Tirunelveli, hence he seeks bail.

4. The learned Additional Public Prosecutor also reiterated the fact submitted by the learned counsel for the petitioner.



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5.Considering the nature of allegations made against the petitioner and also considering the period of incarceration and taking note of the fact that the petitioner is a cancer patient and still taking treatment and also taking into consideration of the principle stated by the Honourable Supreme Court in Sanjay Chandra and others vs. CBI reported in (2012)1 SCC 40 and the nature of the offence alleged by the petitioner, this Court is inclined to grant bail to the petitioner.

6.Accordingly, the petitioner is ordered to be released on bail on condition to execute a own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) subject to the satisfaction of the learned Judicial Magistrate, Ambasamudram, Tirunelveli District and on further conditions that:

- (i) the petitioner shall appear before the trial Court on receipt of summons
- (ii)the petitioner shall not tamper with evidence or witness;
- (iii)the petitioner shall not abscond during trial.

(iv) 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].



CRL OP(MD). No.19071 of 2023

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229A IPC.

sd/-
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20/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV

To

- 1.The Judicial Magistrate,
Ambasamudram, Tirunelveli District.
- 2.Do through the Chief Judicial Magistrate,
Tirunelveli District.
- 3.The Inspector of Police,
Kadayam Police Station,
Tirunelveli District.
- 4.The Superintendent,
Central Prison,
Palayamkottai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.MATHAVA SELVAM, Advocate (SR-15533[I] dated 20/10/2023)



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ORDER

IN

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Date :20/10/2023

ED/ /SAR- (20/10/2023) 5P / 7C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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