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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 27/02/2023
PRESENT

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

CRL OP(MD) . No.22080 of 2022

S.Suresh

... Petitioner/Accused/
Accused No.3

Vs

The State rep.by
The Inspector of Police,
Theppakulam Police Station,
Madurai City.
Crime No.803 of 2015.

... Respondent/Respondent/
Complainant

For Petitioner : M/s.JEGADEESH PANDIAN M,
Advocate.

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

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

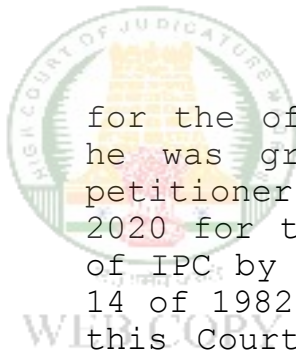
PRAYER :- To enlarge the Petitioner on bail in connection with the case in SC.No.39 of 2017 on the file of the Learned VI-Additional District Judge,Madurai District.

ORDER : The Court made the following order :-

The petitioner /A3 who was arrested and remanded to judicial custody on 16.12.2021 for the offences under sections 302 @ 120(B), 147,148,201,302,341 and 342 of IPC in Crime No.803 of 2015 on the file of the respondent police seeks bail.

2. The learned counsel appearing for the petitioner would submit that the petitioner as A3 is facing trial in S.C.No.39 of 2017 on the file of the learned VI Additional District Judge(FAC) Madurai for the offences under sections 302@ 120(B),147, 148, 201, 302,341 and 342 of IPC and he was regularly appearing before the trial court. Later the respondent police had implicated him in false case and the petitioner was unable to appear before the trial court on 05.08.2019 and thereby the trial court had issued Non Bailable Warrant of arrest against the accused persons. Thereafter the petitioner was implicated in another case in Crime No.636 of 2020

<https://www.mhc.tn.gov.in/judis>

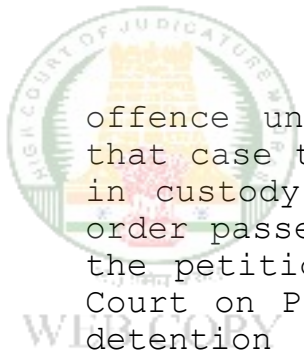


for the offences under sections 334,395,397 and 506(ii) of IPC and he was granted bail on 28.07.2020. While he was in bail the petitioner was once again implicated in a case in Crime No.1037 of 2020 for the offences under sections 147,148,294(b),302 and 506(ii) of IPC by the very same respondent. Later he was detained under Act 14 of 1982 on 09.11.2020. The petitioner has filed a petition before this Court in HCP(MD) NO.1091 of 2020 and this Court by an order dated 11.08.2021 had quashed the detention order. The petitioner fearing false implication by the police had not surrendered and he was once again implicated in a case in Crime No. 520 of 2021 for the offences under sections 392,397,506(ii) of IPC and he was arrested on 17.10.2021 and while he was in judicial custody the petitioner was remanded on P.T.warrant on 16.12.2021. He would further submit that the bail granted to the petitioner in Crime No.803 of 2015 is not cancelled so far. He is in custody from 16.12.2021 and subsequent to the examination of P.W.12 on 22.07.2019, there is no progress in the trial and the petitioner is not responsible for the delay in the trial. He would further submit that the petitioner is ready to abide by any stringent conditions that may be imposed on him and he is also ready to furnish adequate sureties for his release on bail, hence he seeks bail.

3. The learned Additional Public Prosecutor appearing for the respondent would submit that petitioner as A3 is facing trial in S.C.No.39 of 2017 on the file of the learned VI Additional District Judge(FAC)Madurai. He would further submit that the petitioner did not appear before the trial court on 05.08.2019, thereby Non Bailable Warrant was issued. While he was in abscondance he got himself involved in Crime Nos.636 of 2020,1037 of 2020 registered by the very same respondent. He was arrested and thereafter he was detained under Act 14 of 1982 and later the detention order was quashed on 11.08.2021. Subsequently the petitioner got involved in another case in Crime No. 520 of 2021 by the very same respondent and he was in custody. While he was in custody the petitioner was produced before the Court on P.T.warrant, thereby he was remanded to judicial custody. He would further submit that the petitioner is a habitual offender, hence he dismissal of the petition.

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

5. In this case, this court is able to see that the trial Court due to non appearance of the accused in S.C. No.39 of 2017 had issued Non Bailable Warrant of arrest on 05.08.2019. Subsequently the petitioner has been arrested by the very same respondent police in Crime No.636 of 2020 and he was custody. At that time the respondent did not even find it fit to inform the trial court about the arrest of the petitioner. Subsequently he was granted bail on 21.07.2020 and even thereafter the petitioner did not surrender before the Court. Again the petitioner was involved in a case in Crime No.1037 of 2020 registered by the very same respondent for the



offence under sections 147,148,294(b),302 and 506(ii) of [n that case the petitioner was arrested on 21.07.2020 and when he was in custody the petitioner was detained pursuant to the detention order passed on 09.11.2020 Even when he was in prevention detention the petitioner did not take steps to produce him before the trial Court on P.T. warrant for the progress of trial. Subsequently the detention order was quashed on 11.08.2021 and the petitioner had gone out. Even thereafter the petitioner did not surrender and recall the warrant and once again he was involved in a case in crime No.520 of 2021 and later he was arrested on 17.10.2021. When he was in custody he was produced on P.T.warrant.

6.The Court is pained to see the lackadaisical attitude of the respondent/prosecution in conducting trial of the case in S.C. No.39 of 2017 on the file of the learned VI Additional Sessions Judge, Madurai. It is seen that Non Bailable Warrants in sessions case was pending from 05.08.2019. Subsequently he was arrested in two cases he was also detained under Act.14. The respondent police did not even bother to intimate the trial Court about the subsequent arrest and take steps to produce him before the Court on P.T.warrant. No steps have been taken to cancel the bail also and in the meanwhile yet another accused has absconded and trial in this case has come to a dead lock from 22.07.2019. It is now stated by the petitioner that he is in custody from 16.12.2021 and there is no progress in the trial after examination of P.W.12 on 22.07.2019. It is also stated that A1 in this case is still absconding and because of his abscondance there is delay in trial. This is not the only case and in several sessions cases trials are prolonged due to the laxity shown by the police in non execution of Non Bailable Warrant issued by the Courts.

7. 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.25,000/- (Rupees Twenty Five Thousand only) with two blood related sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Madurai, 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 trial Court on all working days at 10.30 a.m., until further orders and thereafter before the respondent police every Saturday at 6.30 pm, until further orders.



[d] the petitioner shall not commit any offences of 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/-

27/02/2023

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27/02/2023

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

AAV

TO

1 THE VI ADDITIONAL DISTRICT JUDGE,
MADURAI DISTRICT.

2 THE JUDICIAL MAGISTRATE NO.I, MADURAI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.

4 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.

5 THE INSPECTOR OF POLICE,
THEPPAKULAM POLICE STATION,
MADURAI CITY.

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

ORDER IN

CRL OP(MD) No.22080 of 2022

Date :27/02/2023

SA/SSS/SAR. /27.02.2023/4P/7C