



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 02/01/2023

PRESENT

WEB COPY

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

CRL OP(MD). No.22557 of 2022

Reswan Ali

... Petitioner/Accused No.1

Vs

The State Rep. by,
The Sub Inspector of Police,
SS Colony Police Station,
Madurai District.
(Crime No.818/2021).

... Respondent/Complainant

For Petitioner : M/s. Krishnan.S,
Advocate.

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

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

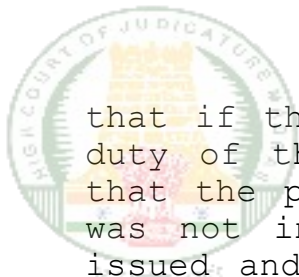
PRAYER :-

For Bail in Crime No.818/2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested and remanded to judicial custody pursuant to Non-bailable Warrant, dated 11.08.2022 issued by the learned IV Additional District and Sessions Judge, Madurai in S.C.No.38 of 2022 for the offence under Sections 341, 302 and 506 (ii) IPC and hence, the present application has been filed.

2.The learned counsel appearing for the petitioner would submit that the petitioner who is arrayed as A1, is facing trial in S.C.No.38 of 2022 on the file of the learned IV Additional District and Sessions Judge, Madurai for the offence under Sections 341, 302 and 506(ii) IPC. He would further submit that the petitioner was arrested in some other case and when he was in jail, therefore he was unable to appear before the trial on 11.08.2022 and the learned Sessions Judge had issued Non-Bailable Warrant of arrest, pursuant to which, the petitioner was arrested and remanded to judicial custody through P.T. Warrant on 23.08.2022. He would further submit



that if the petitioner was arrested in some other case, it is the duty of the respondent police to intimate the same to the Court that the person was in custody in some other case. Since the same was not informed by the police, Non-Bailable Warrant came to be issued and he was arrested and that the bail already granted was also not cancelled. He would further submit that the similarly placed accused has also been granted bail by the trial Court. Hence, he seeks for bail.

3.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is having eight previous cases of grave nature and he is a habitual offender and since he did not appear before the Court on 11.08.2022, the Trial Court had issued Non-Bailable Warrant of arrest. Pursuant to which, he has been arrested and remanded to judicial custody. Hence he opposed to grant bail to the petitioner. However, he would fairly concede that on 11.08.2022, the petitioner was detained under Act 14 of 1982.

4.In reply, the learned counsel for the petitioner would submit that the petitioner has a family and he has a permanent residence and his wife is ready to stand as surety for him and that the petitioner is also ready to abide by any stringent condition that may be imposed on him.

5.Heard. Perused the materials available on record including the FIR.

6.Taking into consideration of the facts and submissions and also the fact that the petitioner was in jail, when the Non-Bailable warrant was issued by the trial Court, 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 sureties (out of which, one shall be the wife of the petitioner) each for a like sum to the satisfaction of the learned IV Additional District and Sessions Judge, Madurai, and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned 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., till framing of charges and thereafter, on the dates fixed by the learned Sessions Judge.

(e) the petitioner shall not commit any offences of similar nature;



(f) the petitioner shall not abscond either during investigation or trial;

(g) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) 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];

(i) if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-
02/01/2023

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02/01/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

TO

1. THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE,
MADURAI.
2. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
3. THE SUB INSPECTOR OF POLICE,
SS COLONY POLICE STATION,
MADURAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.22557 of 2022
Date :02/01/2023

USK/MMS/SAR- /02.01.2023/3P/5C