



Crl.O.P.No.2890 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.02.2024

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

Crl.O.P.No.2890 of 2024

Richard Uba

... Petitioner

/versus/

The State represented by,
The Inspector of Police,
North Police Station,
Tiruppur City.

(Crime No.383 of 2023)

... Respondent

PRAYER : Criminal Original Petition filed under Section 439 of Criminal Procedure Code, pleased to enlarge the petitioner on bail pending trial in C.C.No.479 of 2023 on the file of the learned Judicial Magistrate No.I, Tiruppur.

For Petitioner : Mr.K.Sureshkumar

For Respondent : Mr.S.Santhosh,
Government Advocate (Crl.Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 14.03.2023 for the offence punishable under Sections 14(1), 14(c) of Foreigners Act, 1946, in Crime No.383 of 2023, on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that the petitioner, who is Nigerian National, has over stayed in India without valid permit. Hence, the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner (A3) is an innocent person, aged about 40 years and he came to India with valid Visa and due to Covid-19, he was unable to renew his Visa and the Visa had lapsed. Hence, he was arrested on 14.03.2023 and he is languishing in prison. He also submitted that this is his second application for bail before this Court and this Court, while dismissing the petitioner's earlier bail petition in CrI.O.P.No.13342 of



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2023 o 20.06.2023, had directed the trial Court to complete the trial within a period of three months from the date of receipt of a copy of the order. However, despite the lapse of more than three months, the trial has not been completed.

4. The learned counsel for the petitioner further submitted that the petitioner is ready to furnish local sureties and also ready to abide any stringent condition that may be imposed by this Court. He also submitted that the petitioner is also ready to co-operate for speedy disposal of the case. He further submitted that the co-accused in this case viz., John Paul Nnaemeka and Afam Pascal have already been granted bail by this Court vide orders dated 04.09.2023 and 12.12.2023 in Crl.O.P.Nos.19626 & 27781 of 2023 respectively. Hence, he prayed for grant of bail to the petitioner.

5. Learned Government Advocate (Criminal Side) submitted that the petitioner is a Nigerian National and during the year 2018, he had come to India with valid passport. However, he overstayed in India in violation of passport rules. He further submitted that the case has been



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taken up for trial in C.C.No.479 of 2023 on the file of the learned Judicial Magistrate No.I, Tiruppur and there are 11 witnesses in this case.

He also submitted that the prosecution had examined PW1 to PW5, however, now the case stands posted on 20.02.2024 since the witnesses PW1 to PW5 have been recalled, based on the application filed by the accused under Section 311 Cr.P.C. He further submitted that if bail is granted to the petitioner at this stage, there is every possibility of the petitioner absconding and derail the progress of trial. Hence, he opposed for grant of bail to the petitioner.

6. Heard the learned Counsel for the Petitioner and the learned Government Advocate (Crl.Side) for the respondent Police and perused the materials available on record.

7. It is seen from the submissions made by the learned Government Advocate (Crl.Side) that the investigation in this case has been completed, the case has also been taken up for trial in C.C.No.479 of 2023 on the file of the learned Judicial Magistrate No.I, Tiruppur and the case stands posted for presence of witnesses PW1 to PW5 on



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20.02.2024.

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8. Taking into consideration the above facts and circumstances of the case, considering the fact that the similarly placed co-accused have been granted bail by this Court and taking note of the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

9. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)** with **two local sureties**, each for a like sum to the satisfaction of the learned **Judicial Magistrate No.I, Tiruppur**, and on further conditions that:

[a] 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] **the petitioner shall appear before the learned Judicial Magistrate No.I, Tiruppur on all working days at 10.30 a.m. until further orders;**

[c] the petitioner shall not abscond during



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trial;

[d] the petitioner shall not tamper with evidence or witness during trial;

[e] 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]***;

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

19.02.2024



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To

1. The Judicial Magistrate No.I,
Tiruppur.
2. The Inspector of Police,
North Police Station,
Tiruppur City.
4. The Central Prison,
Puzhal, Chennai.
5. The Public Prosecutor,
High Court, Madras.



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A.D.JAGADISH CHANDIRA,J.

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