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Crl.O.P.No.10302 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2024

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THE HON'BLE MRS. JUSTICE **T.V.THAMILSELVI**

Crl.O.P.No.10302 of 2024

Raffiq

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Railway Police Station,
Salem District.

(Crime No.339 of 2013)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in S.C.No.79 of 2022 pending on the
file of the learned Chief Judicial Magistrate, Salem.

For Petitioner : Mr.C.Deepakkumar

For Respondent : Mr.V.Meganathan
Government Advocate (Crl.Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 07.07.2023, pursuant to the non-bailable warrant of arrest issued against
him on 27.08.2019 in S.C.No.79 of 2022 pending on the file of the learned



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Chief Judicial Magistrate, Salem, for the offence under Sections 328, 397 r/w 34 of IPC, seeks bail.

2. Learned counsel for the petitioner submitted that the petitioner is an accused (A1) facing trial in S.C.No.79 of 2022, pending on the file of the learned Chief Judicial Magistrate, Salem. He further submitted that the petitioner was regularly appearing before the trial Court, since he was unable to appear before the trial Court on 27.08.2019 due to the viral fever, the trial Court has issued a Nonailable Warrant of arrest against him. Pursuant to which, the respondent had arrested the petitioner on 07.07.2023. He further submitted that the petitioner is ready to abide by any stringent conditions that may be imposed by this Court and also undertakes that he will appear before the trial Court on all hearing dates without fail, therefore, he prays for grant of bail to the petitioner.

3. Learned Government Advocate (Crl.Side) appearing for the respondent submitted raised objection stating that since the petitioner, who is an accused (A1) facing trial in S.C.No.79 of 2022, pending on the file of the learned Chief Judicial Magistrate, Salem, has failed to appear before the trial



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Court on 27.08.2019 and thereby, pursuant to the Non-Bailable Warrant issued against him, he was arrested on 07.07.2023.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the entire materials available on record.

5. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and taking note of the undertaking given by the petitioner and considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.10,000/- (Rupees Ten thousand only)** with **two sureties** (out of which, one surety shall be the blood related surety), each for a like sum to the satisfaction of the learned **Chief Judicial Magistrate, Salem**, and on further conditions that:

[a] the sureties shall affix their photographs and



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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 trial Court, on first and fourth Wednesday of every month at 10.30 a.m., until completion of trial, apart from the Court hearing dates, failing which, the bail shall be cancelled automatically;

[c] the petitioner after coming out on bail shall file an Affidavit of Undertaking to the effect that he will co-operate for speedy disposal of the trial;

[d] the petitioner shall not abscond during trial;

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

[f] 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]*;

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



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To

1. The Chief Judicial Magistrate,
Salem.
2. The Inspector of Police,
Railway Police Station,
Salem District.
3. The Central Prison,
Salem.
4. The Public Prosecutor,
High Court of Madras.



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T.V.THAMILSELVI, J.

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