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Crl.O.P.No.11962 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.05.2024

CORAM:

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

Crl.O.P.No.11962 of 2024

Arockiyadoss,
S/o.Jaganathan

... Petitioner/Accused

Versus

State rep. by:

The Inspector of Police,
Thirukkannapuram Police Station,
Nagapattinam District.
(Crime No.52/2024)

... Respondent/Complainant

For Petitioner : Ms.Mythili Srinivas
For Respondent : Ms.M.Sumai Arnica
Public Prosecutor

PRAYER: Criminal Original Petition filed under Section 439 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to enlarge on bail the petitioner/ accused in Crime No.52 of 2024 on the file of the respondent police.

ORDER

This Criminal Original Petition has been filed by the petitioner on 13.05.2024 under Section 439 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant bail.



2. The petitioner / Accused was arrested and remanded to judicial custody on 05.04.2024 for the alleged offences punishable under Sections 447 & 436 of IPC in Crime No.52 of 2024, on the file of the respondent police.

3. The case of the prosecution is that, due to previous enmity, the petitioner trespassed into the defacto complainant's property and set fire to 6900 straw bundles of thus caused damage to goods worth a sum of Rs.10,000/-. Hence, this case.

4. The learned counsel for the petitioner submitted that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. He further submitted that the petitioner is in judicial custody since 05.04.2024. The earlier bail application filed by the petitioner was dismissed by the learned District and Sessions Judge, Nagapattinam. He further submitted that if this Court grants bail to the petitioner, he is ready to produce local sureties to the satisfaction of the Court. He, therefore, prayed to grant bail to the petitioner.

5. The learned Public Prosecutor appearing for the respondent police submitted that the petitioner and the defacto complainant are neighbours and they have some land dispute and the petitioner has caused damage to the property of the defacto complainant worth about Rs.10,000/-. She further



submitted that the petitioner has no previous case; and that If bail is granted to the petitioner, he will cause threat to the defacto complainant and witnesses.

Accordingly, she prayed to dismiss this Criminal Original Petition.

6. Heard on both sides. This Court has perused the records.

7. The petitioner is a first time offender and he has no previous case. He has permanent residence and deep roots in the society. Hence, there is less possibility for absconding. Considering the above reasons, this Court is inclined to grant bail to the petitioner, however, subject to certain conditions. Accordingly, bail is granted to the petitioner subject to the following conditions:

(i) The petitioner shall execute a bond for **Rs.25,000/-** (Rupees Twenty Five Thousand only) and furnish two sureties each for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of **the learned Judicial Magistrate No.II, Nagapattinam.**

(ii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Judicial Magistrate shall obtain a copy of any one of identity proofs to ensure their identity;



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(iii) The petitioner is directed to deposit a sum of Rs.10,000/- to the credit of the Crime No.52 of 2024 on the file of the Thirukkannapuram Police Station, before the Judicial Magistrate II, Nagapattinam and on such deposit, the Judicial Magistrate may invest the said amount in an interest earning Fixed Deposit in a Nationalized Bank and on conclusion of trial, if the petitioner is convicted, then hand over the said amount together with the accrued interest to the defacto complainant. If the petitioner is acquitted, then the said amount in the Fixed Deposit together with the accrued interest may be returned back to the petitioner herein.

(iv) The petitioner shall appear and sign before the respondent police daily at 10.00 a.m., until further orders;

(v) The petitioner shall not, directly or indirectly, cause any threat to the defacto complainant and witnesses and shall not tamper the evidence.

(vi) On breach of any of the aforementioned conditions, the learned Magistrate is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by him as laid down by the Hon'ble Supreme Court in P.K. Shaji vs. State of Kerala

[(2005) 13 SCC 283].



8. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated *supra*.

16.05.2024

Index : Yes/No
Internet : Yes/No
Neutral citation : Yes/No
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Note:-

1. Registry is directed to forthwith upload this order in the official website of this Court.
2. All concerned to act on this order being uploaded in official website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.

To

1. The Judicial Magistrate II, Nagapattinam.
2. DO THROUGH:
The District and Sessions Judge, Nagapattinam.
3. The Superintendent of Police,
District Prison, Nagapattinam.
4. The Inspector of Police,
Thirukkannapuram Police Station,
Nagapattinam District.
5. The Public Prosecutor,
High Court, Madras.



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R.SAKTHIVEL, J.

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