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Crl.O.P.No.12124 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.05.2024

CORAM:

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

Crl.O.P.No.12124 of 2024

Mohamed Nausathali

... Petitioner

Versus

State rep. by:

The Inspector of Police,
R4 Soundarapandiyanar Police Station,
Chennai.

(C.C. No.6409 of 2019)

... Respondent

PRAYER: Criminal Original Petition filed under Section 438 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to enlarge the petitioner/accused on bail in the event of his arrest in C.C. No.6409 of 2019 on the file of the Chief Metropolitan Magistrate Court at Egmore.

For Petitioner : Mr.Thenrajan Kalirajan

For Respondent : Mr.C.E.Pratap

Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed by the petitioner on 14.05.2024 under Section 438 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant anticipatory bail.



2.The respondent police registered a case against the petitioner for the alleged offence under Sections 353, 332 and 506 (ii) of IPC and 3 (1) of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992 [TNPPDL Act] in Cr. No.182 of 2019 and the same was taken on file in C.C. No.6409 of 2019 on the file of the Chief Metropolitan Magistrate at Egmore and the above case is posted on 31.05.2024 for examination of the accused under Section 313 of Cr.P.C.

3.The petitioner is regularly appearing before the Court and contesting the case. On 24.04.2024, on the eve of his marriage held on 25.04.2024, the petitioner did not appear before the Trial Court. Petitioner side filed petition under Section 317 of Cr.P.C., on that day. The learned Chief Metropolitan Magistrate, Egmore, had dismissed the said petition and issued NBW warrant against the petitioner on the same day. Hence, the petitioner filed this petition under Section 438 Cr.P.C, apprehending the arrest at the hands of the respondent police.

4.The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner did not attend the Court regularly since 2019. The other co-accused did attend the trial proceedings



regularly. Due to the act of the petitioner, the trial is prolonged and thereby, delay is being caused. Hence, he prayed to dismiss this Criminal Original Petition.

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

6.Petitioner has stated that his marriage held on 25.04.2024, hence, he was not able to attend the Court on 24.04.2024. The factum of marriage held on 25.04.2024 has not been disputed by the respondent. Hence, non-appearance of the petitioner before the Court on 24.04.2024 is *bonafide* and genuine. Petitioner has reasonable apprehension of arrest at the hands of the respondent police. Considering the facts and circumstances of the case, that the case is posted for examination of the accused under Section 313 of Cr.P.C., to secure the ends of justice and with a view to protect the personal liberties of the petitioner, to ensure fair trial procedure, this Court does incline to allow the petition and thereby, this Court is inclined to grant an order of pre-arrest bail to the petitioner however with conditions. Accordingly, pre-arrest bail is granted to the petitioner, however, subject to the following conditions.

(i) The petitioner shall be released on bail in the event of his arrest or in the event of his surrender before the learned Chief Metropolitan



Magistrate Court at Egmore within a period of 15 days from today, on executing a personal bond for a sum of Rs.20,000/- (Rupees Twenty Thousand only) along with two sureties each for a like sum of Rs.20,000/- (Rupees Twenty Thousand only) to the satisfaction of the **Chief Metropolitan Magistrate Court at Egmore.**

(ii) The petitioner shall appear and sign before the trial Court namely Chief Metropolitan Magistrate Court at Egmore, daily at 10.00 a.m., till the date of passing of the judgment in C.C.No.6409 of 2019.

(iii) 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 Chief Metropolitan Magistrate, Egmore, shall obtain a copy of any one of identity proofs to ensure their identity;

(iv) The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade her from disclosing such facts to the Court or to any police officer;



(v) The petitioner shall not leave India without the prior permission of the Court; and

(vi) On breach of any of the aforementioned conditions, the learned Chief Metropolitan Magistrate / Trial Court is entitled to pass appropriate orders against the petitioners in accordance with law as if the aforementioned conditions are imposed by themselves as laid down by the Hon'ble Supreme Court in **P.K.Shaji Vs. State of Kerala** [(2005)13 SCC 283].

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

17.05.2024

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.**



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R.SAKTHIVEL, J.

rkp/tk

To

- 1.The Chief Metropolitan Magistrate Court at Egmore.
- 2.The Inspector of Police,
R4 Soundarapandiyanar Police Station,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.

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