



CRL OP(MD). No.10138 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 27/08/2024

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.10138 of 2024

Lathif Moulana

... Petitioner/ Accused No.1

Vs

The Inspector of Police,
Dindigul Taluk Police Station,
Dindigul District,
Crime No.1051/2021.

... Respondent/Complainant

For Petitioner : Ms.P.Krishnaveni, Advocate
For Respondent : Mr.B.Thanga Aravindh,
Government Advocate (Crl.Side)

PETITION FOR BAIL UNDER SEC 483 of BNSS

PRAYER :-

To enlarge the petitioner herein on bail in connection with the case in SC No.78/2022 before the learned Additional District and Sessions Judge, Dindigul, Crime No.1051/2021 on the file of the respondent police.

ORDER : The Court made the following order :-

This petition has been filed seeking to enlarge the petitioner herein on bail in connection with the case in S.C.No.78 of 2022 before the learned Additional District and Sessions Judge, Dindigul in Crime No.1051 of 2021 on the file of the respondent police.

2.The case of the prosecution is that the petitioner along with his friends had conspired and in furtherance to the conspiracy, committed the murder at Kotiyapatti



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3.This is the second application filed by the petitioner before this Court seeking bail.

4.The petitioner was arrested on 12.01.2024 and remanded to judicial custody on 13.01.2024 in S.C.No.78 of 2022. The petitioner is the first accused in Crime No.1051 of 2021, on the file of the respondent police for the offence under Sections 120(B), 294(b), 302 r/w 34 and 109 IPC. The case was registered on 16.09.2021 at about 01.15 pm.

5.The respondent police has filed the final report as against the petitioner and others in the year 2021 and the same was taken on file in P.R.C.No.76 of 2021 and the case was committed to the Court of Sessions on 17.05.2022. During the trial, the petitioner has failed to appear before the trial Court and therefore, a non-bailable warrant was issued as against him. In pursuance of the same, the petitioner was arrested by the respondent police on 12.01.2024.

6.In the earlier application filed by the petitioner, the respondent police has raised serious objections for granting bail that the petitioner has evaded the trial thrice and therefore, if he is released on bail, he would abscond and he would not be available for trial. Considering the same, this Court has dismissed the earlier application in Crl.O.P(MD)No.4947 of 2024, dated 15.04.2024.



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7.This is the second application filed on the ground that substantial portion of trial has been completed and the petitioner is languishing in jail for the past seven months. The respondent police has raised serious objections and therefore, this Court has directed the respondent police to file a report as to the manner, in which, the petitioner has evaded the trial.

8.The learned Government Advocate (Crl.Side) submits that the petitioner was originally arrested on 16.09.2021 and he was also detained under Tamil Nadu Act 14 of 1982, vide Detention Order No.79 of 2021. However, the same was revoked by the orders of this Court in H.C.P(MD)No.347 of 2022, dated 11.07.2022. Thereafter, the learned Principal Sessions Judge, Dindigul, has released the petitioner on bail on 18.07.2022 with certain conditions. However, the petitioner has failed to appear before the Additional District and Sessions Court, Dindigul in S.C.No.78 of 2022 and also he didn't appear on 15.09.2022. Therefore, a non-bailable warrant was issued as against the petitioner and then, the petitioner has surrendered before the learned Additional District and Sessions Judge, Dindigul and the same was recalled by the learned trial Judge on 08.11.2022. However again he has failed to appear before the trial Court on 21.12.2022 and therefore, another non-bailable warrant was issued against him, for which, he surrendered on 22.12.2022 and therefore, the warrant was recalled on 22.12.2022.



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9. According to the learned Government Advocate (Crl.Side), the charges were framed on 28.02.2023 and the case was also posted for trial on 13.09.2023. On that date, the petitioner didn't appear before the trial Court in S.C.No.78 of 2022 and the learned Counsel appearing for the petitioner before the trial Court has also filed a memo stating that the whereabouts of the petitioner are not known and withdrew his vakalat. Therefore, another non-bailable warrant was issued as against him and this warrant was executed on 12.01.2024. From then, he is in jail.

10. This Court has considered the submissions made and also perused the materials placed on record.

11. This Court has also directed the respondent police to file a report as to the status of the trial.

12. From the status report filed by the respondent police, it appears that so far the prosecution has examined nine witnesses and ten documents have been marked. Those witnesses, who were examined, were also cross-examined.

13. This Court has rejected the earlier application on the ground that the petitioner has evaded the trial for thrice. The report filed by the learned Government Advocate (Crl.Side) also reveals that the petitioner has evaded the trial thrice i.e., on 15.09.2022, 21.12.2022 and on 13.09.2023. In the first two incidents, the petitioner has voluntarily surrendered within a few days from the date of issuance of the non-



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bailable warrants. For the non-bailable warrant issued on 15.09.2022, the petitioner has surrendered on 08.11.2022 and for the non-bailable warrant issued on 21.12.2022, he surrendered on 22.12.2022. However, for a short time, he has evaded the trial. It is not known whether on his own he has absconded or on his Counsel's strategy, he has evaded the trial. The fact remains that the petitioner has evaded the trial thrice. A memo was also filed when the case was listed for trial that his whereabouts are not known and the learned Counsel appeared for him has also withdrawn his vakalat.

14. Considering that the petitioner is in jail from 12.01.2024, considering the stage of the trial and also considering the petitioner's conduct in not appearing before the trial Court on 13.09.2023, this Court is inclined to grant bail to the petitioner however with stringent conditions.

15. Accordingly, this Criminal Original Petition is ordered and the petitioner is ordered to be released on bail

i) on the petitioner executing a bond for a sum of Rs.1,00,000/- (Rupees One Lakh) with two sureties each for a like sum to the satisfaction of the learned Additional District and Sessions Judge, Dindigul District. The sureties must be of respectable persons.

ii) The petitioner and the sureties shall submit a copy of their Aadhaar Card or any other identity card issued by the Government in proof of their residence address;



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iii) The petitioner appear before the trial Court daily at 10.30 a.m. until the trial is concluded and he shall file an undertaking affidavit stating that he will not abscond or evade the trial.

iv) The petitioner shall appear before the respondent police every alternate day at 05.00 p.m until further orders and shall file a similar affidavit before the respondent police.

v) The petitioner shall not misuse the liberty granted to him by indulging in any further offence and shall not tamper with the prosecution witnesses. He shall be available for the trial as well.

vi) On violation of any of the above conditions by the petitioner, the respondent police shall move an application for cancellation of the bail.

16. The respondent police shall produce the remaining witnesses before the trial Court on the next date of hearing i.e., on 11.09.2024 and the petitioner shall cross-examine those witnesses without fail.

sd/-
27/08/2024

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27/08/2024
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

LR



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TO

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1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, DINDIGUL.

2 THE OFFICER INCHARGE, DISTRICT JAIL, DINDIGUL DISTRICT.

3 THE INSPECTOR OF POLICE, DINDIGUL TALUK POLICE STATION,
DINDIGUL DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC TO M/S.P.KRISHNAVENI, ADVOCATE, SR-10503[I] DATED 28/08/2024

ORDER

IN

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Date :27/08/2024

RS//SAR-(27.08.2024) 7P 6C

Madurai Bench of Madras High Court is issuing
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