



CRL OP(MD).No.6904 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 08.05.2024

PRESENT

The Hon'ble Mr.Justice ABDUL QUDDHOSE

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Ijaz Ahammed

... Petitioner / Accused No.1

Versus

The Inspector of Police,
Elayangudi Police Station,
Sivagangai District.
(Crime No.102 of 2024)

... Respondent / Complainant

For Petitioner : Mr.A.Jainul Abudheen, Advocate
For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :- For Bail in Crime No.102 of 2024 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested and remanded to judicial custody on 05.04.2024, for the offences punishable under Sections 28, 29(a) and 29(b) of Arms Act, in Crime No.102 of 2024 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 05.04.2024 at around 4.30 p.m. A2 has



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purchased the air gun from the petitioner/A1 who in turn purchased the same through on-line. The petitioner/A1 was also found in possession of guns along with articles in his bike. Hence, the case.

3. The learned counsel for the petitioner submits that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. However, he is languishing in jail from 05.04.2024. He further submits that A2 has already been enlarged on bail by the trial Court in Crl.M.P.No.1353 of 2024 dated 15.04.2024. Therefore, he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor opposes for grant of bail on the ground that the investigation is yet to be completed. However, he fairly submits that the petitioner is not having any previous case.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor.

6. This Court, while granting bail in this matter, has taken into consideration (a) gravity of the crime, (b) character of the evidence, (c) position and status of the accused with reference to the victim and witnesses, (d) likelihood of the accused fleeing from justice and repeating the offence, (e) possibility of the accused (petitioner) tampering with the witnesses and obstructing the course of justice.

7. It is also settled law that at the time of consideration of bail application, it is



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neither necessary nor desirable to weigh the evidence meticulously to arrive at a positive finding as to whether or not the accused (petitioner) has committed the alleged offences. What is to be seen is whether there is a reasonable ground for believing that accused (petitioner) is not guilty of the offence he is charged with.

8. The Court has to strike a balance between the rights of the accused (petitioner) to his liberty and the interest of the society. Liberty of an accused (petitioner) cannot be snatched unreasonably for an uncertain time only on the basis of mere allegations.

9. After taking into consideration the aforementioned factors, this Court is inclined to grant bail to the petitioner subject to fulfilment of the following conditions by him.

- i. The petitioner shall execute a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Elayangudi.
- ii. The petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;
- iii. the petitioner shall report before the respondent police daily at 10.30



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a.m until further orders.

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- iv. The petitioner shall not tamper with evidence or witness either during investigation or trial;
- v. The petitioner shall not abscond either during investigation or trial;
- vi. 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]; and ;
- vii. If the accused/petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.
10. Accordingly, this Criminal Original Petition stands ordered.

sd/-
08/05/2024

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08/05/2024
Sub-Assistant Registrar (Liasoning)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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To
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1.The Judicial Magistrate,
Elayangudi.

2.Do through the Chief Judicial Magistrate,
Sivagangai District.

3.The Inspector of Police,
Elayangudi Police Station,
Sivagangai District.

4.The Officer Incharge,
District Jail,
Ramanathapuram.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.A.JAINUL ABUDHEEN, Advocate (SR-5299[I] dated 08/05/2024)

ORDER
IN
CRL OP(MD) No.6904 of 2024
Date :08/05/2024

ED/ /SAR- (08/05/2024) 5P / 7C

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