



CRL OP(MD).No.6953 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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Abraham Lingan

... Petitioner/ Accused

Versus

The State of Tamilnadu,
Rep. by its Inspector of Police,
Thoothukudi South Police Station,
Thoothukudi District.
Crime No.107 of 2019

... Respondent/ Complainant

For Petitioner : Mr.G.Radhakrishnan
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.107 of 2019 on the file of the Respondent Police.



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ORDER : The Court made the following order :-

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The petitioner/accused, who is facing trial in S.C.No.527 of 2023 on the file of the II Additional District Sessions Court, Thoothukudi, for the offence punishable under Sections 341, 294(b), 302 and 506(ii) IPC, in Crime No.107 of 2019, on the file of the respondent police, seeks bail.

2. The case is of the year 2019. Earlier, the petitioner was arrested and released on bail. Since the petitioner failed to appear before the trial Court, a Non-Bailable warrant was issued in the month of Feb.2023, pursuant to which, he was arrested on 10.11.2023.

3.The learned counsel appearing for the petitioner submits that the petitioner has regularly appeared before the trial Court, but, due to his ill-health, on 25.01.2023, the petitioner was unable to appear before the trial Court. Hence, a Non-bailable warrant has been issued. Now, the petitioner undertakes that he will appear before the trial Court on all hearing dates. Therefore, he seeks for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent

<https://www.mhc.tn.gov.in/judis>



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Police submits that during the trial, the petitioner/accused has absconded and therefore, a Non-Bailable Warrant was issued. The respondent Police, after taking steps for more than 10 months, has executed the warrant. If the petitioner is again released on bail, he will again abscond and trial proceedings will be delayed.

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 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.



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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 No.I, Thoothukudi.
- 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;



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- iii. the petitioner shall report before the trial Court, on all hearing dates, without fail.
- 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.



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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.

OGY

TO

1. THE JUDICIAL MAGISTRATE COURT NO.I,
THOOTHUKUDI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI.
3. THE OFFICER IN CHARGE,
SUB JAIL,
PERURANI, THOOTHUKUDI.
4. THE INSPECTOR OF POLICE,
THOOTHUKUDI SOUTH POLICE STATION,
THOOTHUKUDI DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.G.RADHAKRISHNAN, Advocate (SR-5310[I] dated 08/05/2024)



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ORDER
IN
CRL OP(MD) No.6953 of 2024
Date :08/05/2024

RK (08/05/2024) 7P / 7C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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