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Crl.O.P.No.2899 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2025

CORAM

THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.2899 of 2025

Md Dilowar Khan

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
City Crime Branch -II, Chennai.
(Crime No.170 of 2024).

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, pleaded to enlarge the petitioner on bail, in connection with Crime No.170 of 2024, pending investigation on the file of the respondent Police.

For Petitioner : Mr.K.Anandha Raja

For Respondent : Mr. A. Gopinath
Government Advocate (Crl.Side)



CrI.O.P.No.2899 of 2025

WEB COPY

ORDER

Petition seeking bail in respect of Crime No.170 of 2024 registered for the alleged offences punishable under Sections 12(1)(b)(1A)(a) of Indian Passport Act and Section 420, 468, 471 of IPC.

2. The case of the prosecution is that, the petitioner herein is a permanent resident of Afghanistan, he had illegally entered into the country and staying at Chennai without Passport, Visa and valid documents. Hence, this case.

3. Learned counsel appearing for the petitioner submits that the petitioner is innocent and he has been remanded to judicial custody on 16.12.2024; and that the petitioner is ready to abide by any stringent condition that may be imposed by this Court and to appear and co-operate for the investigation, and prayed for bail to the petitioner.

4. Learned Government Advocate (Criminal Side) appearing for the respondent police, per contra submitted that the petitioner belongs to Afghanistan; that he had illegally entered into our country without any valid



Crl.O.P.No.2899 of 2025

documents. However, he also referred to the judgment of the Hon'ble Supreme Court in ***Criminal Appeal Nos. 2814-2815 of 2024 dated 06.01.2025***, and submitted that even in case of granting bail to a foreigner, the concerned Registration Officer appointed under Rule 3 of the Registration of Foreigners Rules, 1992 has to be informed, for taking further action. He further submitted that, the Secretary to Government has detained the petitioner under Section 3(2)(e) of the Foreigners Act, 1946.

5. The aforesaid judgment of the Hon'ble Apex Court reads as follows in paragraph nos.7 and 8 as follows:

7. All that can be done is that while releasing a foreigner on bail, the Court should direct the investigating agency or the State, as the case may be, to immediately inform the concerned Registration Officer appointed under Rule 3 of the Rules about the grant of bail so that the Registration Officer can bring the fact of the grant of bail to the notice of concerned Civil Authority.

8. In addition to what we held by judgment and order dated 08th July, 2024, we issue the following directions:

"(i) While granting bail to a foreigner within the meaning of the Act, the concerned court shall issue



Crl.O.P.No.2899 of 2025

direction to the State or prosecuting agency, as the case may be, to immediately communicate the order granting bail to the concerned Registration officer appointed under Rule 3 of the Rules who, in turn, shall communicate the order to all concerned authorities including the Civil Authorities. If such information is furnished, it will enable the authorities under the Act, the Rules and the Order to take appropriate steps in accordance with the law; and

(ii) A copy of this order shall be forwarded to Registrar Generals of all the High Courts, who in turn will forward the copies of the order to all the criminal courts in the respective States."

6. Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Crl.Side) for the respondent Police and perused the materials available on record.

7. Taking into consideration the facts and circumstances of the case, the nature of allegation against the petitioner, the submissions made by the learned counsels on either side, the fact that the petitioner is a foreigner; that he has no previous cases and in custody from 16.12.2024, this Court is inclined to grant bail to the petitioner.



Crl.O.P.No.2899 of 2025

WEB COPY

8. Further, considering the aforesaid judgment of the Hon'ble Supreme Court, **there shall be a direction to the respondent police to inform about the grant of bail to the petitioner herein to the concerned Registration Officer appointed under Rule 3 of the Registration of Foreigners Rules, 1992.**

9. Accordingly, the petitioner is ordered to be released on bail on his executing 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, Alandur** and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[b] the petitioner shall report before the respondent Police everyday at 10:30 a.m., until further orders;

[c] the petitioner shall not abscond either during investigation or trial;



Crl.O.P.No.2899 of 2025

WEB COPY

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[e] 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]***;

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of B.N.S.

13.02.2025

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CrI.O.P.No.2899 of 2025

WEB COPY

To

1. Judicial Magistrate No.I, Alandur
- 2.The Inspector of Police,
City Crime Branch -II, Chennai.
3. The Superintendent,
Central Prison II, Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.2899 of 2025

SUNDER MOHAN, J.

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Crl.O.P.No.2899 of 2025

13.02.2025