

In the Court of the V Additional District Judge, Madurai

Present: **Thiru M.Balakumar, B.A., M.L.,**
V Additional District Judge, Madurai

Thursday the 23rd day of July 2020

Cri.M.P.Nos.332/2020 in SC No.141/2019

Rajapandi

-- Petitioner

/ Vs /

State through the Inspector of Police,
Tirumangalam Taluk police station
in crime no.404/2017

-- Respondent

This petition is taken up today for hearing at request through e-mail / e-petition and after hearing the arguments of Tmt.J.Abiramasundari, Advocate for the petitioner and of Thiru S.Ramesh, the Addl. Public Prosecutor for the State over conference call, this court passed the following

ORDER

Due to national lock down for COVID-19 virus pandemic, as a result of prohibitory order u/s 144 of Cr.p.c. has been promulgated by the Government of Tamilnadu since 15.7.2020 for Madurai Corporation and in turn regular work of the subordinate judiciary has also been suspended by the Hon'ble High Court of Madras till 31.7.2020. Whereas exceptions have been granted to attend urgent works like bail depending upon the facts and circumstances of the case and also the nature of emergency. Accordingly this petition has been filed on 13.7.2020 by online and taken on file.

1. Bail application u/s 439 of Cr.p.c.
2. The offences alleged are u/s 302 IPC.

3. The learned counsel for the petitioner stated in the petition that a case has been registered against the petitioner /accused in Tirumangalam Taluk police station crime no.404/2017 u/s 302 IPC. The petitioner is the sole accused in this case and he was remanded to judicial custody on 18.12.2017 and he is in custody for more than 2-1/2 years. The accused was falsely implicated in this case and the investigation has been completed. The parents are aged and no one is supporting his family. If the petitioner is released on bail, he would oblige the condition without any hindrance and prayed to enlarge him on bail.

4. Per contra the learned Addl. Public prosecutor submitted in the reply that the case was committed to sessions court and made over to this court and is pending in SC No.141/2019. The case is posted for framing of charges. Further the petitioner has been in judicial custody from 18.12.2017 and he is in custody for more than 940 days. If bail is granted, he would definitely hamper the witnesses and tamper the prosecution and would indulge in similar type of crimes and strongly objected to grant bail to the petitioner.

5. Heard both side through Conference call.

6. Considered the argument of both side. The learned counsel for the petitioner would argue that the accused was under judicial custody from 18.12.2017 and from the day one he was under judicial custody and now the petitioners are suffering due to old age ailments and the petitioner also suffers due to the health ailment of his parents in a mental stress. Hence the petitioner may be considered for release of bail and he should abide any condition imposed by this court.

7. Per Contra, the learned Addl.Public Prosecutor strongly objected for release of bail stating that he would not appear properly for the hearings and there is possibility of threatening of witnesses also.

8. On perusal of records, the petitioner / accused is in judicial custody for a period of 949 days. Considering the long duration of the incarceration period and also considering the health ailment of the parents of the petitioner, this court is inclined to grant bail to the petitioner on the following terms.

1) In the result, the Petitioner is ordered to be enlarged on bail on his executing own bond for Rs.10,000/- to the satisfaction of the Superintendent, Central Prison, Madurai and after the normalcy resumed from the COVID-19 lock down and **after the commencement of the physical hearing and routine work of this court, the accused is directed to appear before this court along with two sureties to execute bond for Rs.10000-00 each to the satisfaction of this court. After the commencement of the regular work by this court, the accused is directed to appear and sign before this court daily at 10.00 a.m. until further orders.**

2. The petitioner shall co-operate with the investigation and they shall not threaten the witnesses, they shall not induce witnesses and they shall not cause obstacles to the pending investigation. If there is any violation of condition, the Investigation Officer is within his discretion to approach the Court of the learned Judicial Magistrate concerned for cancellation of bail order though bail granted by the Sessions Court, as per ruling of the Hon'ble

Supreme Court reported in P.K. Shaji /Vs./State of Kerala (2005) AIR SC W 5560.

3. The petitioner is directed to strictly abide the rules of the government for COVID 19 also namely to remain in his house and to ensure social distancing and thereby reducing the scope of infection.

9. In the result, the petition is allowed.

Sd.M. Balakumar
V Addl.District Judge, Madurai.

Copy to

1. The Inspector of Police, Tirumangalam Taluk Police Station
2. The Superintendent, Central Prison, Madurai
3. The petitioner through his counsel