

In the Court of the V Additional District Judge, Madurai

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

Monday the 11th day of May 2020

Crl.M.P.Nos.329/2020 in SC No.475/2019

Rajini @ Kathirvel @ Kathirvelan -- Petitioner / Accused
/ Vs /

State through the Inspector of Police,
Sellur police station in crime no.616/2013 -- Respondent/Complainant

This petition was taken up today for hearing at request through e-mail / e-petition and after hearing the arguments of Thiru C.Karthikeya, 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 25.3.2020 and in turn regular work of the subordinate judiciary has also been suspended by the Hon'ble High Court of Madras till 31.5.2020. 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 the above petition has been filed on 20.4.2020 by online which has been forwarded to my e-mail account by the Court Manager, Principal District Court, Madurai on 06.5.2020 and taken on file.

1. Bail application u/s 439 of Cr.p.c.
2. The offences alleged is 302 r/w 34 IPC

3. The learned counsel for the petitioner stated in the petition that a case has been registered against the petitioner/ accused in Sellur police station crime no.616/2013 u/s 302 r/w 34 IPC. The petitioner was arrayed as A1 in SC 404/16. Charge sheet has been filed and investigation has been completed and case was committed to this court. In the mean time the petitioner was failed to attend the hearing on 16.7.2019 due to illness. Subsequently NBW was issued against this petitioner. Then on 15.11.19 this court has splitted the case against this petitioner as SC No.475/2019 and the petitioner was produced upon NBW before this court on 26.1.2020 and was remanded to judicial custody on 26.1.2020 and he is in custody for the past 102 days. Due to the illness, the accused was absent for the hearing before this court. His absence is neither wilful nor wanton. Further this is the first bail application and he would appear before this court for the upcoming hearings. He further stated in the petition that his parents are suffering from illness and he has to take care of them and hence prayed to enlarge him on bail.

4. Per contra the learned Addl. Public prosecutor submitted in the reply that the case was committed to this court and is pending in SC No.404/16. Whiles, the petitioner failed to appear for the hearing before this court and hence NBW was issued and hence as per the proceedings of the Principal District Judge, Madurai, dt.15.11.19 the case against this petitioner was splitted up from SC 404/16 and was numbered as SC 475/19 and it is pending before this court. Now in this case, PW1 to PW5 have been examined and the case was posted for examination of further Pws. The petitioner was already released on bail in Crmp No.213/2019 on 11.6.19 with condition to appear before this court on every friday at 10 a.m. until further orders. This is the petition one as jumped out of bail. Further the petitioner was produced on NBW before this court on 26.1.2020 and was remanded to judicial custody on that day itself and he is in custody for 102 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 remanded on execution of NBW from 26.1.2020, and the accused would obey for any stringent condition imposed upon him if he is enlarged on bail and prayed to grant bail to the petitioner.

7. Per Contra, the learned Addl.Public Prosecutor vehemently argued that already bail was cancelled on 7.10.17 and further the accused was earlier released on bail vide Crmp No.213/19 dt.11.6.19 with a condition to appear before this court on every friday at 10 a.m. The accused had not come to abide the condition not even a single day from the date of his release. Thereafter NBW was issued and the accused was remanded upon execution of NBW on 26.1.2020. Hence the accused is having the habit of not abiding the condition imposed by this court. If he is enlarged on bail, again he will continue the same attitude and the progress of the trial of the case will be stagnated. PW1 to PW5 were already examined. Hence the prosecution strongly objected to release the accused on bail.

8. On hearing both sides, this court upon perusing the objection, it reveals that the accused is not at all abiding the condition each and every time whenever he released on bail and from the day one of releasing on bail, the accused is absconding and not appearing before this court and every time he was remanded only on execution of NBW. Further, though in the petition, the petitioner counsel has stated that the petitioner is suffering from illness and the parents of the petitioner is also suffering due to illeness, no supporting documents have been produced to substantiate his contention

and the petitioner counsel also not insisted upon the above ground for releasing the accused on bail. Hence, at this juncture, this court is not inclined to grant bail to this accused and the petition is dismissed accordingly.

9. In the result, this petition is dismissed.

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

Copy to

1. The Inspector of Police, Sellur Police Station
2. The Judicial Magistrate concerned
3. The Superintendent, Central Prison, Madurai
4. The petitioner through his counsel