

In the Court of Vacation Sessions Judge, Kanniyakumari District at Nagercoil.

Present : Thiru B. Karthikeyan, B.L.,
Vacation Sessions Judge/Principal Sessions Judge,
Kanniyakumari at Nagercoil.

Thursday, the 16th day of May, 2024.

CrI.M.P. No. 153/2024

(CNR.No.TNKK0V-000204-2024)

Prabhu, S/o. Muthu Nadar (A2)

..Petitioner

/Vs./

Inspector of Police,

Kottar Police Station,

Crime No. 1011/2020 of Kottar Police Station,

Rep. by P.P. Nagercoil.

.. Respondent

This petition is filed by Legal Aid Defense Counsel Tmt
R.M.Meenakshi, u/s 439 Cr.P.C., praying to grant bail to the petitioner.

ORDER

Heard both sides. Perused the petition.

The petitioner/accused alleged to have been committed the offence u/s
449, 392, 302 r/w 34 of IPC.

The case of prosecution is that on 06.11.2020 the accused persons
trespassed into the house of the victim, murdered the deceased and robbed jewels
from his house. Hence the charge.

The learned counsel for the petitioner submitted that the case has been

charge sheeted and taken on file as S.C No.116/2021 pending before the Additional Sessions Court, Nagercoil and the case was posted on 25.08.2023 for trial. On that day the petitioner could not able to appear before the court on the reason that his mother was sick and due to his non appearance, the learned Additional Sessions Judge issued Nonailable Warrant against the petitioner on 25.08.2023 and on execution of warrant, the petitioner was arrested by the respondent police on 14.10.2023 and the earlier bail application in CrI.M.P. No.1297/2024 was dismissed by the Additional Sessions Judge, Nagercoil on 06.03.2024 and petitioner is ready to abide by any condition and prayed for bail to the petitioner.

The learned Public Prosecutor opposed the application and submitted that the case is of murder for gain. The co-accused A1 died. This petitioner alone facing trial, during the investigation, petitioner was arrested and he has been released on bail in CrI.M.P.No. 4413/2021 by the learned Additional District and Sessions Judge, Nagercoil. When the case was framing for charges, he failed to appear before the court. So the learned Additional Sessions Judge issued Nonailable Warrant against the petitioner on 29.03.2023 and the respondent police executed the said warrant and arrested the petitioner on 29.04.2023. Thereafter, this petitioner filed a petition for bail in CrI.M.P.No.3071/2023 and the same was allowed by the Additional Sessions Judge, Nagercoil on 20.06.2023 with condition to sign before the Additional Sessions Court, Nagercoil daily for a period of 30 days. But the petitioner has not complied the condition even a single day. Again the learned

Additional Sessions Judge issued Non Bailable Warrant against the petitioner on 25.08.2023 and this petitioner was arrested on 14.10.2023. If the petitioner is released on bail, definitely he will abscond and he has serious objection to grant bail to the petitioner and the petition may be dismissed.

It is seen that the petitioner has been remanded on execution of Non Bailable Warrant issued by the trial court, presumably u/s 309 of Cr.P.C., in connection with the Sessions Case pending for trial before the said court. Such remand u/s 309 of Cr.P.C., could have been done only if the court had found it necessary to do so for the purpose of ensuring speedier disposal of the case. Therefore, it would be appropriate for the said court to deal with the application for bail. Even otherwise, in the present case, the petitioner has approached the said court by filing CrI.M.P.No. 1297/2024 for bail and the same has been dismissed on 06.03.2024. In such circumstances, since the petitioner has already exercised his right u/s 437 of Cr.P.C., before the trial court namely the Additional District and Sessions Court, Nagercoil, the only remedy available to him is to approach the higher forum if he intends to challenge the same. This court cannot sit on appeal over the orders passed by the Additional Sessions Judge in this regard. In such circumstances, this petition deserves to be dismissed.

In the result, this petition is dismissed.

Pronounced by me in open court this the 16th day of May, 2024.

Vacation Sessions Judge.