

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 16<sup>th</sup> day of May, 2024.

CrI.M.P. No. 155/2024

(CNR.No.TNKK00-000022-2024)

Tamil Selvan @ Selvan @ Selvam,  
S/o. Chithambaram @ Devadhas

..Petitioner

/Vs./

Inspector of Police,  
Nesamony Nagar Police Station,  
Crime No. 74/1996 of Nesamony Nagar Police Station,  
Rep. by P.P. Nagercoil.

.. Respondent

This petition is filed by Advocate Thiru V.E. John Vianney, 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  
120B, 147, 148, 332, 342, 427, 458, 460, 324, 326, 307, 379, 201, 506(ii), 302 r/w  
149 of IPC and Section 25(1)(B) and 27(2) Arms Act.

The case of prosecution is that on 08.04.1996 in the midnight the named  
and other unknown accused persons entered into the Sub Jail, Nagercoil and

assaulted the prisoner Lingam @ Muthu Lingam, removed his head, while it was deterred by the co-prisoner Babu Suresh, he was also attacked by the accused persons in furtherance of that he also died. 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.402/2023 pending before the Principal Sessions Court, Nagercoil. This petitioner is innocent and as per the FIR itself the alleged offence was committed by 11 named persons and some unknown persons and the name of the petitioner is not found in the FIR and on the basis of the confession given by the arrested accused, this petitioner has been arrayed as an accused in this case. Since this petitioner did not appear before this court, the case against him was splitted and even though the trial court convicted the other accused persons in SC No.157/1998, the Hon'ble Madurai Bench of Madras High Court acquitted all the accused persons in appeal and from 17.10.2023 onwards the petitioner is under judicial custody and the 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 for more than 25 years Non Bailable Warrant is pending against the petitioner and this petitioner was arrested on 17.10.2023 and this case has been split up and committed to this court and taken on file in SC No.402/2023 and in this case 3 witnesses have been examined and case stands posted on 06.06.2024 for examination of L.Ws. and 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.

Considering the nature of the offence alleged to have been committed by the petitioner/Accused and also considering the objection of the learned Public Prosecutor that the case is of the year 1996 and the petitioner/accused is absconding for more than 25 years and also considering the fact that for the last 25 years the petitioner/accused has not chosen to surrender before the court and he has been arrested only on 17.10.2023 and also considering the antecedents of the petitioner/accused and the trial has commenced and is in midway, this court is not convinced that the present petitioner will be available for the trial in the event of release on bail, this court is not inclined to grant bail to the petitioner/Accused at this stage. Hence this petition is dismissed.

In the result, this petition is dismissed.

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

Vacation Sessions Judge.