

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Eighth day of December Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice R.PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.28982 of 2017

1 MAHESH @ MAHESHKUMAR, [PETITIONERS / ACCUSED]
2 VENKATAJALAPATHI @ PATHI,
3 SURESH @ KEMPAN,
4 HARISH,
5 SURESH,

Vs

STATE REP.BY [RESPONDENT]
THE INSPECTOR OF POLICE,
THALLY POLICE STATION,
KRISHNAGIRI, KRISHNAGIRI DISTRICT.
CR.NO.413/2017

For Petitioner : M/S.R.SAGADEVAN Advocate

For Respondent : MR.R.SEKAR, Govt. Advocate (Crl. Side)

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

Heard both sides.

2. The petitioners 1 to 5 are arrayed as accused 1 to 5 in Crime No.413 of 2017 and were arrested and remanded to Judicial Custody on 26.10.2017 for the alleged offences under Sections 341, 294(b), 395, 506(ii) of IPC on the file of the respondent police.

3. The case of the prosecution is that the petitioners intercepted one Babu and took Rs.2,000/- from his pocket by showing knife and also took watch, cellphone and also broken the cool drinks bottles from the near by shop by throwing them into the road and uttered filthy language and threatened him with dire consequences.

4. The learned counsel appearing for the petitioners submitted that these petitioners have been falsely implicated in this case and hence he prayed for granting bail to the petitioners herein.

5. The learned Government Advocate (Crl.side) filed counter and reiterated the submissions stated in the counter.

6. Considering the submissions made by either side, it appears that the offence under Sections 341, 294(b), 395, 506(ii) of IPC has been registered against these petitioners. The first, second and

third petitioners are now in Judicial custody from 26.10.2017. Now considering the submissions made by the learned Government Advocate it would show that the petitioners 1 to 3 are having previous cases. Therefore this Criminal Original Petition is dismissed as against petitioners 1 to 3. Fourth and Fifth accused/petitioners are having only one previous case each. On this ground the learned Government Advocate agitated this petition. Even though investigation has not been completed in this case, considering the previous antecedents of the petitioners and also considering the detention period, this Court is inclined to grant bail only for fourth and fifth petitioners/accused. Since the first, second and third petitioners are having number of previous cases, this Court is not inclined to grant bail.

7. Taking all the above said aspects into consideration, having regard to the period of detention, this Court is of the view that the custodial interrogation of the petitioners are not necessary and therefore, this Court is inclined to grant bail to the petitioners 4 and 5 subject to the following conditions:-

(i) The petitioner is ordered to be enlarged on bail on his executing a bond for Rs.10,000/- each with two sureties for a like sum each to the satisfaction of District Munsif cum Judicial Magistrate Court, Denkanikottai.

(ii) The petitioners 4 and 5 shall report before the respondent / police daily at 10.00 a.m. for a period of one month and thereafter, as and when required for interrogation.

(iii) On the failure of the petitioners 4 and 5 to comply with conditions regularly, bail granted to him shall stand cancelled automatically and the petition is allowed accordingly.

(iv) The petitioners 4 and 5 shall not tamper the evidence or witness either during investigation or trial.

(v) The petitioners 4 and 5 shall not abscond either during investigation or trial.

(vi) On breach of any of the aforesaid conditions, the learned Magistrate / Trial Court is entitled to take appropriate action against the petitioners 4 and 5 in accordance with law as if the conditions have been imposed and the petitioners 4 and 5 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].

-sd/-

28/12/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE COURT,
DENKANIKOTTAI

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

5 STATE REP. BY
THE INSPECTOR OF POLICE,
THALLY POLICE STATION,
KRISHNAGIRI, KRISHNAGIRI DISTRICT.

CC to M/S.R.SAGADEVAN Advocate on payment of necessary charges
SR.NO.

CRL OP.28982/2017

Date :28/12/2017

RD 28/12/2017