



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Eighteenth day of September Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL OP(MD) Nos.12255 and 12256 of 2017

DAVID

... PETITIONER / ACCUSED NO.1
IN CRL OP(MD) No.12255 of 2017

VINOTH

... PETITIONER / ACCUSED NO.2
IN CRL OP(MD) No.12256 of 2017

Vs

THE STATE REP.BY,
THE SUB INSPECTOR OF POLICE
PUDUKKOTTAI POLICE STATION,
THOOTHUKUDI DISTRICT.
CR.NO.313/2017

... RESPONDENT / COMPLAINANT
IN BOTH PETITIONS

For Petitioner : M/S.S.M.A.JINNAH Advocate IN BOTH PETITIONS

For Respondent : MR.A.RAMAR Additional Public Prosecutor
IN BOTH PETITIONS

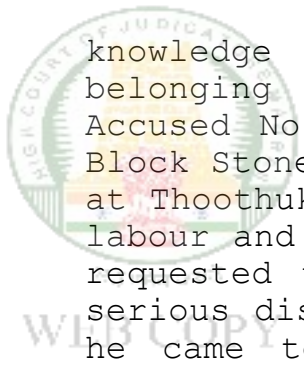
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who were arrested and remanded to judicial custody on 26.08.2017, for the offence punishable under Section 380 of IPC , in Crime No. 313 of 2017, on the file of the respondent police, seek bail.

2. The case of the prosecution is that the accused had entered the house of the defacto complainant and they had illegally taken away 18 sovereign of gold jewels and cash of Rs.1,000/- and two cell phones. Except the cash of Rs.1000/-, other jewels, cell phones were recovered from Accused Nos.1 and 2 on their confession. Investigation is still pending. The petitioners herein were arrested and remanded to judicial custody on 26.08.2017 and still they are in judicial custody.

3. The learned counsel appearing for the petitioner by filing an additional typed set of documents states that the petitioners have no way connected with the alleged offences and they have no



knowledge about the occurrence. Originally the petitioners are belonging to Madurai. Accused No.1 is working as a mason under Accused No.2 and he is also doing a mason work for marking Favor Block Stones at Thoothukudi in Tirunelveli District. While they were at Thoothukudi, one Suresh also joined his concern and he is also a labour and the said Suresh came to Madurai in the month of July and requested to buy a gold bangles stating that his mother was in a serious diseases and for providing medical treatment to his mother he came to sell the bangles. So the petitioners/accused herein believed the word of the Suresh, Accused No.1 received 4 sovereign gold bangles from Suresh and Accused No.2 received 4 sovereign gold Aaram from the said Suresh and they paid Rs.20,000/- to Suresh and also received old cell phone and subsequently, Accused No.2 has given the said cell phone to one Thangapandi, who is also working as labour. The police recovered all the jewels and cell phones from the above said persons. The petitioners are only receivers and the petitioners have no previous case in the similar type of offence.

4. The learned Additional Public Prosecutor appearing for the respondent, on instructions, would submit that the petitioner in CrI.O.P(MD).No.12255 of 2017 was arrayed as A1 in this case and petitioner in CrI.O.P(MD).No.12256 of 2017 was arrayed as A2 in this case. He further submitted that F.I.R was registered against unnamed accused in this case. During investigation, there are 3 accused in this case. A3 is still absconding. There is no previous case against the petitioners in the similar type of offence and the investigation is still pending.

5. Considering the above facts and circumstances of the case and also considering the fact that the entire properties except cash of Rs.1000/- were recovered from A1 and A2 and the accused/petitioners are in judicial custody from 26.08.2017 onwards and they have no previous case in the similar nature of offence, this Court is inclined to grant bail to the petitioners subject to certain conditions.

6. Accordingly, the petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.10,000/-(Rupees Ten Thousand Only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.III, Thoothukudi, and on further condition that:

[a] the petitioners shall report before the respondent police, daily at 10.30 a.m., until further orders.

[b] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioners shall not abscond either during investigation or trial.

[d] On breach of any of the aforesaid conditions, the learned Magistrate/Judicial Court is entitled to take appropriate action against the petitioners in accordance with law, as if the conditions



have been imposed and the petitioners 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/-
18/09/2017

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDICIAL MAGISTRATE NO.III, THOOTHUKUDI.
 - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
 - 3 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
 - 4 THE SUB INSPECTOR OF POLICE,
PUDUKKOTTAI POLICE STATION, THOOTHUKUDI DISTRICT.
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +2. CC to M/S.S.M.A.JINNAH Advocate SR.Nos.30880 & 30881

ORDER IN
CRL OP(MD) Nos.12255 and 12256 of 2017
Date :18/09/2017

MKV-PM-PN-SAR 3/18.09.2017/3P-8C