

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Sixth day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice N. ANAND VENKATESH

CRIMINAL ORIGINAL PETITION No.2854 & 2968 of 2019

MUHAMATHUASHIF

[PETITIONER / ACCUSED
IN CRL.OP.NO.2854/2019]

SARJAN

[PETITIONER / ACCUSED
IN CRL.OP.NO.2968/2019]

Vs

STATE REPRESENTED BY
STATION HOUSE OFFICER,
MAILAM POLICE STATION,
VILLUPURAM DISTRICT.
CR. NO. 547 OF 2018.

[RESPONDENT
IN BOTH THE PETITIONS]

For Petitioner : M/S.K.SUDHAKAR Advocate
[IN CRL.OP.NO.2854/2019]

For Petitioner : M/S.D.BENNINGTON Advocate
[IN CRL.OP.NO.2968/2019]

For Respondent : MRS.M.PRABHAVATHI ADDL.PUBLIC PROSECUTOR
[IN BOTH THE PETITIONS]

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who were arrested and remanded to judicial custody on 26.12.2018 for an offence under Sections 394, 397 IPC in Crime No.547 of 2018 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant is working as a salesman in a TASMACH shop and on 20.10.2018, at about 22.00 hours he had taken the collection amount of Rs.1,95,000/- along with the Escort in his two wheeler and two unknown persons who came in another two wheeler showed the knife and caused injury to the Escort and took away the amount from the defacto complainant. The petitioners were arrested and remanded to Judicial custody on 26.12.2018.

3. The learned counsel for the petitioner's submitted that these petitioners have been falsely roped in this case and they have nothing to do with the above said offences.

4. The learned Additional Public Prosecutor submitted that on 26.12.2018, a regular vehicle check up was made at which point of time, the respondent police found the movements of the petitioners suspicious and therefore, they were apprehended and thereafter, they confessed to the crime that was committed on 20.10.2018. The learned Additional Public Prosecutor further submitted that the petitioners are involved in three other cases of similar nature.

5. This Court has carefully considered the submissions made on either side.

6. It is surprising that the petitioners have been inside the prison from 26.12.2018 onwards and till today, no ID Parade has been conducted by the Investigating Officer. Unless, the petitioners are identified in the manner known to law, the respondent police cannot file a final report with sufficient materials. The petitioners have been unnecessarily kept inside the jail and there is absolutely no progress in the investigation also. There must be some progress in the investigation and therefore, keeping the petitioners inside the jail will not solve the problem. This Court is therefore inclined to grant bail to the petitioners by imposing certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.5,000/- (Rupees five thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Tindivanam and on further conditions that:-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall report before the learned Judicial Magistrate I, Tindivanam, daily at 10.30 a.m and 5.30 p.m, until further orders.

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

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

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-
06/02/2019

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 JUDICIAL MAGISTRATE,
NO.I, TINDIVANAM

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM[FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI

4 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

5 THE STATION HOUSE OFFICER,
MAILAM POLICE STATION,
VILLUPURAM DISTRICT.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.K.SUDHAKAR Advocate on payment of necessary charges
SR.NO. 2658

+1 CC to M/S.D.BENNIGTON Advocate on payment of necessary
charges SR.NO. 2657

CRL OP.2854 & 2968/2019

Date :06/02/2019

RD 06/02/2019