

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.08.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.4654 of 2020

Chukwu Onwumere Zepphanniah,
S/oZepphaniah

... Petitioner

Vs.

The State Rep. By
Inspector of Police
Mamallapuram Police Station
Kancheepuram District District
(Crime No.488 of 2019)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.488 of 2019 on the file of the Inspector of Police, Mamallapuram Police Station, Kancheepuram District District

For Petitioner : Mr.S.V.Jeevagiridharan

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 19.09.2019 for the offences punishable under Section 12(1) (c) of Passport Act, 1967 and Section 14 of Foreigners Act, 1946 in Crime No.488 of 2019, seeks bail.

2. The case of the prosecution is that the petitioner, who is a Nigerian, was found staying in India without proper visa and other travel documents.

3.The learned counsel appearing for the petitioner would submit that the petitioner is a Nigerian and he has come to India with proper travel documents and when he was in Bangalore, his passport was stolen by somebody on 08.06.2019 and from Bangalore, he came to Mahabalipuram and when he was in Mahabalipuram, he was arrested for not being in possession of valid travel documents and remanded to custody. However, in the meanwhile, he has also been issued fresh passport by Nigerian Embassy. The learned counsel for the petitioner submits that he is in custody from 19.09.2019 and the respondent police may also be directed to file final report and he is ready to

proceed with the trial on day today basis.

4. The learned Government Advocate (Crl. Side) would submit that the petitioner, being a foreigner, was found loitering in Mahabalipuram, without any travel documents and thereby, he was arrested and remanded and investigation has been completed and final report is ready and the respondent is waiting for sanction from the District Collector and after receipt of the same, they file the final report before the concerned Court.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) and perused the FIR.

6. Taking into consideration of the facts and circumstances, considering the submissions made by the learned counsels, and also considering the period of incarceration suffered by the petitioner from 19.09.2019, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the petitioner has been confined and thereafter on his release;

(b) the petitioner shall within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier and execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, out of which, one surety should be a blood surety, before the learned Judicial Magistrate, Thirukazhukundram, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d) the petitioner on his release from prison, shall report before the respondent police everyday at 5.30 p.m. until further orders.

(e) the petitioner shall not commit any offences of similar nature;

(f) the petitioner shall not abscond either during investigation or trial;

(g) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) On breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial 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

(i) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

(j) a direction is issued to the respondent police to get appropriate Orders from the District Collector, Kancheepuram and file final report, at the earliest, preferably within a period of one month from the date of receipt of a copy of this Order.

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-

21/08/2020

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,
THIRUKAZHUKUNDRAM

2 THE SUPERINTENDENT,
CENTRAL PRISON, NO. II, PUZHAL

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
MAMALLAPURAM POLICE STATION,
KANCHEEPURAM DISTRICT.

CC to M/S.V.JEEVAGIRIDHARAN Advocate on payment of necessary charges

WEB COPY

CRL OP.4654/2020

Date :21/08/2020

RD 04/09/2020