



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.05.2020

CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

CrI. O.P. No. 7661 of 2020

Shoban

... Petitioner

-vs-

State By,
The Inspector of Police,
Perundurai Police Station,
Erode District.

... Respondent

PRAYER:- Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 247 of 2019 pending on the files of the respondent.

For Petitioner : Mr. G. Ashok Kumar

For Respondents : Mr. Karthikeyan Swaminathan,
Additional Public Prosecutor

O R D E R

The Petitioner, who is A5 in Crime No. 247 of 2019 for the alleged offences under Sections 392 @ 392 and 395 of I.P.C., was arrested on 13.03.2020.

2. The case of the prosecution is that one Annavar Satharth, the de-facto complainant had lodged a complaint on 03.05.2019. On the complaint, he stated that he was running a business in the name and style of City Gold and K.M. Rexin in Kerala and Tamil Nadu. On 03.04.2019, he had asked his drivers to carry cash from Chennai to Kerala in his car. On that day, Rs.30,00,000/- (Rupees Thirty Lakh only) was taken in his Renault Duster Car. When the car crossed Vijayamangalam Toll Gate near Thondi, four unknown persons dressed in police uniform came in two cars, restrained and stopped the drivers and informed that they have to check the vehicle and forcibly taken all the three drivers in their car and also his car along with the cash of Rs.30,00,000/- (Rupees Thirty Lakh only). On the way, after some distance, each person was dropped in road and thereafter, they had taken his car along with cash of Rs.30,00,000/- (Rupees Thirty Lakh only). Hence, the complaint was lodged and the case was registered and investigation has been commenced by the Respondent.

3. The contention of the Petitioner is that the Petitioner's name does not appear in the F.I.R. and he is no way involved in this case. The Petitioner has been arrayed as accused based on the confession of co-accused. No recovery has been made from the Petitioner. The



Petitioner was also taken into police custody and the investigation as regard the Petitioner has been completed. Further, detention of the Petitioner in this case is unwarranted and hence, he seeks bail.

4. The learned Additional Public Prosecutor submitted that the occurrence had taken place in April 2019 and there are totally eight accused in this case. Further A1 to A3 in this case were detained under GOONDAS Act and all the accused were professional offenders and they had joined together and committed the offence. He further submitted that this Petitioner is also an accused in a case registered in Kerala and he has been prosecuted by the Police in Kerala. The Petitioner hails from Ernakulam District, Kerala and if the Petitioner is released, it would be very difficult to secure him. Moreover, the investigation of the case is likely to be completed and charge sheet is about to be filed. In that event, if the Petitioner is released on bail, the trial would not progress. Hence, he objected for the grant of bail.

5. Considering the rival submissions and on perusing the materials, it is seen that A1 to A3 who have been detained under GOONDAS Act are now released by quashing the detention order and further, except this Petitioner, all the co-accused were enlarged on bail. The only apprehension is that if he had granted bail, he would not be available for trial. The learned counsel for the Petitioner had given an undertaking that the Petitioner would reside in Coimbatore since some of his relatives are residing in Coimbatore and he would not leave the State of Tamil Nadu without informing the Police and without getting necessary permission.

6. Taking into consideration of the fact that the Petitioner is in judicial custody from 13.03.2020 and the major part of the investigation is over, this Court is inclined to grant bail to the Petitioner, subject to the following conditions:-

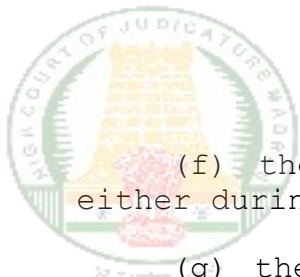
(a) the Petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each before the Superintendent of the concerned prison in which the Petitioner has been confined on his release;

(b) the Petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the concerned Magistrate on or before 01.07.2020, 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 shall not commit any offences of similar nature;

(e) the Petitioner shall not abscond either during investigation or trial;



(f) the Petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) the Petitioner shall reside within the city of Coimbatore, for the purpose of investigation and for attending the trial, the Petitioner is permitted to attend the Respondent Police if he is called for investigation and to attend the Court in connection with this case.

(h) 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];

(i) if the accused thereafter absconds, a fresh F.I.R. can be registered under Section 229A I.P.C.

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

-sd/-

19/05/2020

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 OFFICER INCHARGE,
SUB JAIL, PERUNDURAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
PERUNDURAI POLICE STATION,
ERODE DISTRICT.

CC to M/S. G.ASHOK KUMAR Advocate on payment of necessary charges

CRL OP.7661/2020

Date :19/05/2020

RVR 24/08/2020

<https://hcservices.ecourts.gov.in/hcservices/>