

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.05.2020

CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

Crl. O.P. No. 7664 of 2020

A. Venkatesan

... Petitioner

-vs-

The State,
Represented by the Inspector of Police,
Jalakandapuram Police Station,
Jalakandapuram,
Salem - 636 501. Respondent

PRAYER:- Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 188/2018 on the file of the Respondent police.

For Petitioner : Mr. R. Prem Anandhan

For Respondents : Mr. Karthikeyan Swaminathan,
Additional Public Prosecutor

O R D E R

The Petitioner who was arrayed as A4 in Cr.No.188 of 2018 for the alleged offence under Sections 364, 364(A), 457, 392, 302 and 201 of Indian Penal Code, was arrested on 26.02.2020 and hence, he has filed this application for grant of bail.

2.The case of the prosecution is that the defacto complainant's husband was doing Real-Estate business and on 18.09.2018, he had gone to Salem City in connection with his business and he had not returned till 23.09.2018. On 18.09.2018, the defacto complainant had called her husband in her mobile at about 06.00 p.m., but his phone was switched off. Again on 19.09.2018, at about 02.00 p.m., when the defacto complainant called her husband, some person has picked up the phone. Thereafter, the defacto complainant called her husband again, she could not speak with her husband and hence, the complaint has been lodged and the case was registered.

3.The learned Counsel for the petitioner submitted that he has been implicated in this case based on the confession of the co-accused A2. The co-accused A2 was already released on bail by this Court in Crl.O.P.No.7384 of 2020 dated 30.04.2020. Further, he submitted that all the material evidence have been examined by the police and the petitioner has been in incarceration for more than 80 days and hence, he seeks bail.

4.The learned Additional Public Prosecutor submitted that A1, Pushparaj was a business man and A2 was his friend and A3 to A7 were used to eliminate the deceased. The deceased, Sakthivel had lured and cheated many persons by projecting himself as a iridium dealer and also used the superstitious belief of the people to his advantage by luring the accused, extracted, cheated huge sums of money, hence the accused planned together had committed the said offence. Hence, he objected for the grant of bail.

5.Considering the rival submissions and perusing the materials, it is seen that entire facts of the case is said to have been revealed based on the confession given by A1 to the Village Administrative Officer and that confession has been obtained after registration of the case, thereafter, the involvement of the other accused have come to light from the said confession. This petitioner has been arrayed as accused based on the confession of the co-accused and it is seen that all the co-accused have been granted bail in this case and there is no previous case against the petitioner.

6.Taking into consideration of the fact that the petitioner is in judicial custody from 26.02.2020 and there is no previous case against the petitioner, 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) 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];

(h) 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 INSPECTOR OF POLICE,
JALAKANDAPURAM POLICE STATION,
JALAKANDAPURAM, SALEM-636 501.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE OFFICER INCHARGE,
DISTRICT PRISON, SALEM.

CC to R.PREMANANDHAN Advocate on payment of necessary charges

CRL OP.7664/2020

Date :19/05/2020

RVR 24/08/2020

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